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A N
INTRODUCTION
T O
The Old English History,
Comprehended in Three several
TRACTS.

The FIRST,
An Answer to Mr. Petyt's *Rights of the Commons Asserted*;
and to a BOOK Intituled, *Jani Anglorum facies Nova*; The
Second Edition very much Inlarged.

The SECOND,
An Answer to a Book Intituled, *Argumentum Antinorma-
nicum*, much upon the same Subject; Never before Published.

The THIRD,
The Exact HISTORY of the Succession of the Crown of
England; The Second Edition, also very much Inlarged.

TOGETHER WITH
AN APPENDIX
Containing several RECORDS, and a SERIES of Great
COUNCILS and PARLIAMENTS Before and After the Con-
quest, unto the End of the Reign of HENRY the Third.

AND A
GLOSSARY
Expounding many Words used frequently in our
Antient RECORDS, LAWS and HISTORIANS.

Published for the *Vindication* of Truth, and the *Assistance* of, such as desire
with *Satisfaction* to Read, and truly Understand the Antient English Hi-
storians, and other Pieces of Antiquity.

By ROBERT BRADY, Doctor in Physick.

LONDON: Printed by Tho. Newcomb, for Samuel Lowndes, over against
Exeter Exchange in the Strand. M D C L X X X I V.



The E P I S T L E
TO THE
A Candid R E A D E R.



B Have Intituled these several Discourses, *An Introduction to History*; for indeed so they are, if we observe the Things themselves, and not the Method. *Introductions*
C I know are Written after another manner; but as to the *Matter* here treated of, whoever reads our Old Historians, and hath
D not a true Understanding and Apprehension of it, neither can he truly, and as he ought, understand them, nor will he ever be able to *arrive* at the Knowledge of our *Ancient Government*, or of what Import and Signification the Men were that lived
E under it according to their several Denominations; of what Power, and Interest they were, what they did, and how they behaved themselves; nor who, nor what they were, that *contended* with our Ancient Kings about *Liberty*, and Relaxation of the Government, nor indeed what truly the
F Liberties were they contended for. This last particular will be more fully cleared, in the Preface to the first Volume of the History of *England*, and in the Reigns of King *John* and *Henry* the Third, which shall (God willing) be published next *Michaelmas* Term.

The true Originals of Things having been neglected and forgotten in many Nations, several Conjectures have been introduced in stead of them,

The Epistle to the Reader.

which never had such beginnings, nor never were known or thought of at the time when they were said to be done or used, by such Men as in writing and reporting of them, have pleased their own Fancies, served an Interest, or pursued an Humour, rather than Truth. A

The old *Romish Clergy* at first, in whose Management were all the Affairs of the Nation, out of Design, to *Bow* the *Secular Government*, and make it *Truckle* under *Holy Church*, and by that means under themselves, published many Popular Notions concerning Ecclesiastick and Secular Liberty in those Antient Times, and raised up thereby the *Barons* and *Military Men*, to break the King's Power, and lessen his Authority, that by their Assistance they might obtain Dominion over him. C
These *Popular Notions* have ever since been kept up according to the sound of the Words they were first delivered in, by such as *Succeeded* those *Clergy-Men* in their *Places* and *Offices*. Though many of the Things then contended for, were either D
for ever sufficiently secured; and others not long after irrevocably vanished; and were all of such a Nature, or so Established, as afterward there could be no Controversie about them, yet the Words having been retained, and used, and interpreted according to vulgar Acceptation, 'tis scarce E
credible what *Mischiefs* and *Bloodshed* they have occasioned in *Successive* Ages, even to our own Days.

And upon these, and some *Parcels* of *Sentences*, some *Popular Scraps*, and *Shreds*, taken out of the *Beginning*, *Middle*, or *Later End* of a Period, without any respect to the Matter Treated of in Old Historians, or Records, have been built mistaken Notions, false Conceptions, and apprehensions F

sions of Antient Things and Story, and obtruded upon the World as the true sense and meaning of them.

A I esteem it a great Happiness and Blessing to the People of *England*, that they *injoy* more *Liberty* and *Freedom* than all the People in the World besides. I wish they had more, if there can any thing be added to it, that would not make them *Lawless* and *Licentious*, and the *Mobile* and *Factionous* incontrollably insolent.

B Two sorts of *Turbulent* Men there are in the World, who under *plausible Pretences* have appeared for the *Liberty* of the People, or indeed the *Change* of the Government. That they might *invest* themselves with such Power and Authority, as might afterwards make them *submit* to their *Dictates*, *Wills*, and *Pleasures*, though never so *Arbitrary*, *Tyrannical*, *Injust* and *Cruel*; for in that all the fair and smooth Pretences of such Men do constantly terminate.

D One of these sort of Men preach to the People, *That the Origin of all Power and Government is from them; That Kings or Magistrates derive their Authority from them; That they have none, nor more than what they give them; That they are their*
E *Servants, Instruments, Executors and Trustees only, and accountable to them for Male-Administration, and may be Tried, Sentenced, Deposed, or put to Death by them, or such as they shall Impower or Authorize to that purpose, that is, themselves.* These Men are Pretenders to *Platonic* and *Eutopian* Governments, such as never had a *Real Existence* in
F any part of the World, nor never can be practicable amongst any People, or in any Nation whatsoever; yet are specious *Baits* to hook in *Unstable, Unwary, Fluttering* and *Malitious* Men.

The Epistle to the Reader.

The other sort are such as hold forth to the People, *Ancient Rights* and *Privileges*, which they have found out in *Records*, and *Histories*, in *Charters*, and other *Monuments* of *Antiquity*; by these Men the People are *taught* to prescribe against the Govern-
ment for many Things they *miscal* Fundamental Rights; by these Men 'tis averred, that under the phrase of *Baronagium Angliæ*, both Lords and Commons were Comprehended; That *Proceres* & *Magnates* are Words of large extent; That the *Plebeians*, and *Ordinary Freeholders* (according to the Modern Denomination) were such. That there were *Barones Regis*, & *Barones Regni*, *Milites*, & *Libere Tenentes qui de Rege Tenent in Capite*, & *Milites*, & *Libere Tenentes de Regno*; And, That the later were the Men of *Mark* and *Note* in the great Councils of the Kingdom. That the word *Baro* was applicable to the whole People, the Body of *Freeholders*, especially, as assembled in Parliament. That all *Proprietors* of Land, all *Probi Homines*, or *Bonæ Conversationis*, came to great Councils as Members, in their own Persons; That all such were *Nobiles*. That *Ordinary Freeholders* often came to *General Councils* of the Kingdom, without *Special Election* or *Representation*; That upon a *Change* in the *Succession* to the Crown, there might be *Extraordinary Conventions* of the People to *declare* their *Universal Consent*, for better *assuring* such *Successors*; and That this was an *Elective* Kingdom, which as often as they have opportunity they cunningly insinuate, though they do not plainly *assert* it in terms.

By all which *sly* and *malicious* Insinuations, and many more of the like Tendency, they endeavour to *undermine* the Government, and so infuse Dangerous

gerous Notions of *Soveraignty* and *Power* into the Peoples Heads, which they *never had*, or *enjoyed*, nor can be *capable of managing* in any Government in the World.

A Any Man that shall observe, what the last Men craftily drive at, and *compare* it diligently with what the former assert, will not find much *Difference* in their *Principles* and *Designs*.

B For the defence of Truth, and the *Detection* of these Men, and for no other purpose, and of their *partial Citations*, *Falsity* in *leaving out* and *adding* what they please, *Mis-Applications*, *false Interpretations*, *wilful Wresting* and *abusing* of *Records*, and *History*, (seeing no other Person did *undertake* them) I have written these *Tracts* to *undeceive* the People, and to shew them, That really they were not *possessed* of these *Pieces* of *Soveraignty* and *Empire* anti-
C ently, nor of such *share* in the *Government*, as these *Unquiet, Tumultuous* Men endeavour to make them believe they had, and still ought to have.

D In the Name of God let the English People enjoy all their *Just, Due, Legal Rights, Liberties* and *Privileges*, and let them never be *disturbed* in the present Establishment of more Freedom to them, than all the Subjects in the World do enjoy, so long as they remain *Quiet* and *Obedient* to the Go-
E vernment; Let them enjoy every thing whereto the KING or His *Antecessors* have given their *Consent*, and that hath been *Allowed* and *Owned* by *Usage* and *Practice* many *Centuries* of *Years*, and found *Agreeable* to the *Interest* of *Prince* and
F *People*; for all *Liberty* and *Freedom* is *Founded* upon the *Ease, Happiness, Repose* and *Safety* of both: And when *Liberty* is *used* with *design* to *supplant* and *destroy* the *Government*, 'tis then *Sedition*, and
ought

ought to be *restrained* by such *legal, prudent, and just Ways and Means* as the *Government* shall think fit, to *obviate* the *Designs and Contrivances* of such Men, and fully to *Establish and Secure* it self.

I have followed and traced these Men in all their *material and most specious Citations*, and do leave it to the *Indifferent and Judicious Reader* to judge, whether I have not sufficiently discovered their *Ignorance and partiality* in, or *wilful mis-application* of them ; and also shewn their *Arts and Designs* (though at distance) to *Batter and Bomb* the *Government*, and *disturb* the *peace and quiet* of the *Nation* ; especially if it be considered at what time these Men were *most busie* of themselves, if not *im- ployed* by others in this Service.

As to my own *Citations*, if any Man thinks I have not been *every way faithful* in them, they are so *particularly* noted , as it may with the greatest ease imaginable be discovered, (unless happily the *Printer* hath mistaken ;) and whoever shall *make* such *Discovery*, let him be as *severe* upon me as he please, I shall not take it ill, but rather *return* him *thanks* for his pains. Before the *use* of them, I considered again and again whether I *might* not be mistaken in their *true meaning*, and likewise considered all *Circumstances*, and compared them with other *Relations* of the *same Times and Things* where- ever I could find them.

I shall not inlarge further upon the great *Use and Advantage* Those that read *Old Historians* may make of these *Discourses* , but leave that to the *Judgment* of *Understanding Readers*.

A FULL and CLEAR

ANSWER

TO A

BOOK,

WRITTEN BY

William Petit Esquire,

ENTITLED,

The RIGHTS of the COMMONS Asserted,

Printed in the Year 1680.

By which it appears,

That he hath *Mistaken* the *Meaning* of the *Histories* and *Records* he hath *Cited*, and *Misapplied* them: And that he hath *Added* to, or *Taken from* them, or *left Unrecited* such *Words* and *Matters* as he thought would either *Advance*, or *Destroy* his *Assertion*.

With a True *Historical Account* of the Famous *COLLOQUIUM* or *PARLIAMENT*, 49 *Hen. III.*

Together with

Some *ANIMADVERSIONS* upon a *BOOK*,

CALLED,

FANI ANGLORUM FACIES NOVA,

With many *Additions* to them both.

In the *SAVOY*,

Printed by *T. N.* for *Samuel Lowndes*, over against *Exeter-Exchange* in the *Strand*. MDCLXXXIII.

A N
A D V E R T I S E M E N T
T O T H E

A
Impartial and Judicious
B R E A D E R.

C I F I prove tedious to him, I must say, I could
not help it. For I have made more large
Recitals and Translations of some *Records*
and *Histories* than otherwise I would have done,
being forced thereto, by the *Authors* often Jumb-
ling, two *Records*, and *Different Parts* of *History*
together, and making but one of them. By his
Partial Citations and Expositions; By his Taking
D In, and Leaving Out, what he judged was For,
or Against him; and By his Publishing only Ends
and Shreds of *Records* and *Histories*, where he
found any thing, that did but sound like what he
Thought might maintain his Assertion. The *Re-*
E cords I have used, are Faithfully Cited; and like-
wise the *Historians*, who are such as lived in the
Times, when the Things I Vouch them for, were
Acted, or who are of the Best Authority or Credit,
or such as Lived very near the time of the Things
F Done; whose Writings, in very many things, do
agree with the *Publick Records*, as to the Matter
and Time, Though not to the Form and Compo-
sure; and This I Affirm from my own Collat-
ing, and Comparing of them.

THE INTRODUCTION.

P. 1.

MR. Petyt having produced Matter of Fa^ct only for the Confirmation of his Assertion, my principal Design in this following Discourse is to shew, That the Matter of Fa^ct was not such as he pretends and avers it to have been, and to discover the true meaning of our excellent English Records and Histories, for the benefit of such as intend understandingly to read them, and to detect his Partial Citations and Concealments of the greatest parts of them, he hath made use of, which would have destroyed his Assertion, and to rescue these Sacred things from Groundless and Designing Interpretations, I follow his own Method, and do affirm,

P. 1.

1. That the Commons of England Represented by Knights, Citizens, and Burgeses in Parliament, were not introduced, nor were one of the Three Estates in Parliament before the 49th of Henry III.

P. 2.

2. I affirm, That before that time, the Body of the Commons of England, or Freemen (as now understood, or as we now frequently call them) collectively taken, had not any share or votes in making of Laws for the Government of the Kingdom, nor had any Communication in Affairs of State, unless they were represented by the Tenents in Capite.

These two Propositions are plainly laid down, and contradictory to what he confidently avers he hath proved.

P. 2, 2.

To discover therefore and refute the unsoundness of his Assertions, and that what I affirm may appear to be true, I shall follow his course, and first by way of Answer to his, make good my second Position, before I answer his first Assertion; and do hope to evince, That he hath said nothing to prove, That during the British, Saxon, and Norman Governments, the Freemen or Commons of England, as now called and distinguished from the great Lords, were Pars Essentialis & Constituens, an Essential and Constituent part of the Witena-Gemote, Common Council, or Parliament in those Ages.

P. 4.

A N
A N S W E R
TO A

B O O K,

WRITTEN BY

William Petit, &c.

First, *Under the British Government.*

TO prove this Assertion under the *British* Government, our Author cites part of the Answer of Pope *Eleutherius*, to the Epistle of King *Lucius*, who (as 'tis fabled) sent to him for the *Roman* Lawsto Govern his Kingdom by ; and says, That the Pope, who could not be ignorant of the Constitution and Frame of the *British* Polity, writes back to him, *Habetis penes vos in Regno utramque paginam, Ex illis Dei gratia per concilium Regni vestri sume legem, & per illam, Dei potentia vestrum rege Britannia regnum.* These words by the frequent Texts of Scripture that follow in the Answer should be thus rendred, *You have with you in your Kingdom both the Law and Gospel, out of them by the Grace of God, and Council of your Kingdom take a Law, and by that in the Power of God Rule your Kingdom of Britain.* What is this to either of your Assertions? You say little else upon this Head. *What is this to the Commons being an Essential part of the British Councils or Government?* How doth it prove it? but besides the Author Sir Henry Spelman from whom he had this fragment, says, King *Lucius's* Epistle is no where to be found, and that the pretended Answer to it is a Forgery, and worthily for these Reasons, First, *For that Lucius had no need to write to Rome to Eleutherius for the Roman Laws, when they were Established here before that time in Britain under the Roman President. For every Colony of the Romans was but an Image of the Mother City with like Holy Rites, like Courts, Laws, &c. And the famous Roman Lawyer Papinianus, the chief Minister of Justice under Geta had his Tribunal at York. Tacitus says that the Britains affected Roman Language and Eloquence, Roman Habits, and frequent use of the Gown, Roman Pleasures, Diet, &c. built Temples and Courts of Justice ; and 'tis most probable they also affected* Roman

P. 4.

Concil. Tom.
I. f. 31. 34, 35.
The Answer
to King *Luci-*
us's Epistle a
Forgery.

Lips. de Mag-
nitud. Rom.
lib I. c. 6.
Dio Cass. fol.
868.
In vita agric.
c. 21.
The Britains
affect Roman
Manners and
Customs.

Roman Laws for which the Language and Rhetorick were most useful. Secondly, For that this Answer ascribed to Eleutherius makes Lucius Monarch of Britain, and takes no notice of the Roman Dominion here. Thirdly, The word *Manutenere* used in it, is of Norman Extraction, and a legal word brought hither by the Normans many hundred years after Eleutherius his being Pope. Fourthly, The places of Scripture cited in this Answer are taken out of the Translation of St. Jerome, who lived almost two hundred years after Eleutherius.

A

P. 4.
The Govern-
ment of the
Britains not
certainly
known by
Mr. Petit.
P. 5.

C. 12.

The State of
the Question,
P. 3 & 7.

Immediately after this Citation, he adds, *But what the Laws and particular Government of the Britains were is very uncertain, because the Histories of their Country (if any were) could not be found, &c.* How then can this Author know that the Commons made an Essential part of their Government, when he knows not what the Government was, which yet in the next page he says is certain and not to be denied that in the Elder time it was so, and for this Reason because Xiphilin out of Dio Cassius says in the Life of Severus, *Apud Britannos populus magnâ ex parte principatum tenet*: With the Britains the People had a great share in the Government; be it so, yet 'tis very probable these were the great People, the Chief amongst the Britains; and that too when the British Monarchy was baffled, distracted, and destroyed by the Roman Power. Tacitus informs us otherwise in the Life of Agricola, an hundred years before Severus; *Britanni olim regibus parebant* (says he) *nunc per principes factionibus & studiis trahuntur*. In times past the Britains obeyed their Kings, and lived under Monarchy. Now they are drawn into Factions and Parties by their Chiefs and Great Men; and by the time of Severus some of the Governments might degenerate into a Populacy or a Compound Government of Aristocracy and Democracy; but if so, it makes nothing for this Gentleman, *he having undertaken to prove that under our British, Saxon, and Norman Monarchies the People distinguished from the Nobility, or as he calls them great Lords, were an Essential and Constituent part of their great Councils and Government.*

B

C

D

E

F

Secondly,

Secondly, *Under the Saxon Government.*

A FROM the *Britains* he proceeds to the *Saxons*, who he says when they made themselves Master of the *British* Nation, brought their Country Laws with them ; of which there can be no doubt (as I shall make it clear upon another occasion (but not their popular Government) and brings the Authority of *Tacitus* to prove that the Commons were an Essential and Constituent part of their Common-Council : *De minoribus rebus Principes consultant, de majoribus omnes, ita tamen ut ea quoque quorum penes plebem arbitrium est, apud Principes pertractentur.* Of lesser matters the Chief of the People Consult, of the greater All ; yet so as those things of which the lowest part of the People are Judges, are first treated of by the better sort ; and these were the Councils of the *German People in General*, not of the *Saxons*, which name is not to be found in all *Tacitus* ; but what if it be granted, that those people which were afterward called *Saxons*, were Governed by such Councils ? was not this Government a Democracy ? and the People so far from not having their Votes and Shares in these Councils, as only they had Voices in them, and if any had any more power here than others, they were the Priests, who were a sort of Chairmen in them, Commanded silence, and had a Coercive power, *Silentium per Sacerdotes, quibus tum & Coercendi jus est, imperatur.* In these Governments no man can doubt of the Suffrages of the People ; but under such as he mentions, our Author would scarce be contented to live, where the Priests bare so much sway, where there were no Cities or great Towns, but only scattered Houses and Habitations by Rivers, Fields, and Woods, made of Dirt, or Clay, Arms of Trees, and Stubble, where there was no Literature, especially amongst the People, nor scarce Civility, where there was no Cloathing but with Garments made of Beasts Skins, no Food but Milk, Pulse, and Flesh, without Art or Cookery, where there was no Propriety in Lands, no Money, no Work for Lawyers, as he will find, if he reads on in *Tacitus*, and the 6th Book of *Cesar's Commentaries*.

E These Councils which were held by the small Popular Governments in old *Germany*, (for to such Governments they must be referred, seeing they frequently were convened on certain Days, either in the New or Full of the Moon, unless some fortuitous and sudden matter happened) are the Platform he mentions in the next page. When he says the *Saxons* under a sole Christian Monarch still continued and kept their Ancient Wittenagemotes or Parliaments, wherein they made Laws, and managed the great Affairs of King and Kingdom, according to the Platform of their Ancestors ; and to evidence this he pretends many instances might be given, but produces only three or four.

F His first instance is in a Common Council, called by *Ethelbert*, which *Spelman* mentions thus, *Anno Dominica incarnationis 605. Ethelbertus Rex in fide Roboratus Catholica una cum Berta Regina filioque ipso Eadbaldo ac reverendissimo præsule Augustino Caterisque op-
timatibus*

P. 6.

De mor. Ger-
man. c. 11.The Priests
had the chief
management
of the Ger-
man Popular
Governments.
Ibid.In those Go-
vernments no
Literature, no
Civility, Ci-
ties, Towns,
Propriety, &c.

Ibid.

P. 7.

P. 7.
Spel. Concil.
vol. 1. fol. 126.A great Coun-
cil called by
Ethelbert, A.
D. 605.

Vide, here in a great Council held by Ethelbert King of Kent, A. D. 605.

Lamb. fol. 148.

Sir Hen. Spelman had his Story out of that Auctuary as appears by the Citation in his Margin. Mr. Petyt takes his instances from Parcels of an idle Story.

The Fabulous Story of King Ina.

timatibus Terræ Solentitatem Natalis Domini Celebrant Cantuariæ, Convocato igitur ibidem Communi Concilio tam Cleri quam populi. In the year of our Lord 605. King Ethelbert being confirmed in the Catholick Faith, together with his Queen Berta, and his Son Ead-bald, and the most Reverend Bishop Augustin, and the other great men of the Land, did celebrate the Solemnity of the Nativity of the Lord at Canterbury, having assembled a Common Council there of the Clergy and People, or Laity, for so *Populus* signifies here, and always does when *Clerus* and *Populus* are only used together, and thus contra-distinguished; then they are Expressive of two different Estates or Conditions of Men or Christians, the Clergy and Laity, or Secular men, and those were *optimates terræ*, the chief men of the Land, as before expressed; neither was this Council held under a sole Saxon Monarch (as he states his Assertion, and brings this first instance to prove, That the Commons were an Essential and Constituent part of the Common Councils under sole Saxon Monarchs;) But under Ethelbert King of Kent only, and that but eight years after Augustins coming hither, and above Two hundred years before the seven Kingdoms were united into one Monarchy.

The second and third instances being indeed but one and the same, he picks out of an idle Story in the additions to, or surplufage of the 35 Law of Edward the Confessor, and to be found in Sir Henry Spelman in the place he cites, but suspected, and not approved by him. I must cite the whole Tale, to let the Reader see what Instances he useth, and how he applies them; which is to be found in the following words in the Law before cited. *Ina Rex Anglorum qui Electus fuerit in Regem per Angelum, & qui primo obtinuit Monarchiam totius Regni hujus, post Adventum Anglorum in Britanniam, primus enim Rex fuit Coronatus Anglorum & Britonum simul manentium in Britannia, post adventum Saxonum Germania, cepit enim in uxorem suam Gualam nomine propter quam vocata est Wallia illa Terra, que quondam vocabatur Cambria; Bigamus enim fuit, cepit autem cum ultima uxore sua Cambriam & Cornubiam; & Coronam benedictam Britannia que fuit ultimo Cadwallado Regi Britannia, Et universi Angli qui tunc temporis extiterunt, uxores suas, ceperunt de Britonum genere, Britones uxores suas, de illustri sanguine & genere Anglorum hoc est de genere Saxonum. Hoc enim factum fuit per commune Consilium & assensum omnium Episcoporum & Principum Procerum Comitum, & omnium sapientum, seniorum & populorum totius Regni, & per preceptum Regis Ine predicti. Multi vero Angli ceperunt uxores suas, de sanguine & genere Anglorum Germania, & quidam Angli ceperunt uxores suas de sanguine & genere Scotorum, proceres vero Scotorum, & Scoti fere omnes, ceperunt uxores suas de optimo genere & sanguine Anglorum Germania; Et ita fuerunt tunc Temporis per universum Regnum Duo in Carne una, & taliter constituit rectum conjugium (& Delevit fornicationem & immunditiam à regno) & recta judicia pro stabilitate Regni, & confirmatione populorum, benigna sedulitate, & tali modo effecti fuerunt gens una, & populus unus per universum Regnum Britannia miseratione Divina.*

Which Fictitious nonsense is thus Translated word for word; Ina, King of the English, which was elected King by an Angel, and who first obtained the Monarchy of this whole Kingdom, after the coming

ing of the *English* into *Britain*, for he was the first Crowned King of the *English Britains*, living together in *Britain* after the coming of the *Saxons* of *Germany*; for he Married *Guala* by name, from whom that Land was called *Wales*, which was sometimes called *Cambria*; he was twice Married, and had with his last Wife, *Wales*, *Cornwal*, and the Blessed Crown of *Britain*, which was *Cadwalladers* the last King of *Britain*. And all the *English* to a Man took their

- A Wives from the Race of *Britains*; and the *Britains* their Wives from the illustrious Blood and Stock of the *English*, that is, of the Stock of the *Saxons*. For this was done by the *Common Council* and Assent of all the *Bishops*, *Princes*, great Men, *Earls*, and of all the *Wisemen*, *Seniors*, or *Aldermen*, and People of the whole Kingdom; and by the command of King *Ina* *aforsaid*. But many of the *English* Married into the Blood and Race of the *English* of *Germany*, and some *English* took their Wives from the Blood and Stock of the *Scots*;
- B but the Great Men of the *Scots*; and almost all the *Scots* took their Wives from the best Stock and Blood of the *English* of *Germany*; and so there were at that time through the whole Kingdom two in one Flesh, and thus he constituted true Wedlock (and extirpated Fornication and Uncleanness out of the Kingdom) and right Judgments, for the stability of the Kingdom, and Confirmation of the People, by a kind Care and Diligence, and so they were made one Nation, and one People through the whole Kingdom of *Britain* by Divine Mercy.
- C

And of the grand League of the *Britains*, *Scots*, and *Picts*, the Author mentions, p. 8, 9.

- This whole Story is very idle, (nor should I have much taken notice of it, but to let the World see what Histories he Trades in.) First here is King *Ina* elected by an Angel; who is bound to believe that? Then *Ina* who was King only of the *West-Saxons*, is here said to be Monarch of this whole Kingdom, and first Crowned King of the *English* and *Britains*; a meer Invention: It appears
- D not to be so in any Historian; *Geofrey* of *Monmouth*, *Caradac* of *Lancarvan*, *Humfrid Lluid*, and *David Powel* the four famous *British* Historians, are either silent in this matter, Judge it to be suspected, or affirm *Ina* to be only King of the *West Saxons*; next, 'tis here said he Married *Guala*, Daughter to *Cadwallader*, who was his last Wife, from whom *Wales* had it's name, and had with her as by Inheritance, *Wales*, *Cornwal*, and the Blessed Crown of *Britain*; a direct Forgery. For first, to let *Guala* pass (whose very existence
- E *H. Lluid* judgeth to be a Fiction) *Wales* never had its name from her, but from the *Saxon*, *Wealh*, which signifies a Stranger; And both the *Britains* and their Language being Strange to the *Saxons*, they called them *Wealhs*, or Strangers, having driven them into those parts of *Britain*, now called *Wales* and *Cornwal*, as several of our best *British* and *English* Historians inform us.

Wales had not it's name from *Guala*. Descript. of *Wales*, p. 2. Som. in Gloss. in verbo *Wallicus*. But from the *Saxon* word *Wealh*. *H. Lluid*. *D. Powel*. *W. Lambard*, and Mr. *Camden*. *Saxon Annals* and *Florent*. *Wigorn*. in that year.

- Secondly, *Ina* began his Reign *An. Dom.* 689. and was neither
- F King of *Britain*, or *Wales*; For at that time ¹ *Ethelred* the Son of *Penda* was King of *Mercia*, and after him *Cenred*; ² *Alfred* or *Ealdfrith* was King of *Northumberland*. ³ *Withred* King of *Kent*. And in the year 710. *Ina* and his Kinsman *Nun* fought with *Gerent* King of *Wales*. And besides these instances all our Historians agree, That ⁴ *Egbert*, who began his Reign, *An. Dom.* 800, 73 years after the death of *Ina*, was our first *Saxon* Monarch; The fictitious non-
- B
- sense

¹ *Saxon Annals*. A.D. 704.
² *Ibid*. A. D. 705. *Bedes*. *Eccl. Histor.* f. 345. 347.
³ *Sax. Ann.* A.D. 694. 625.
⁴ *Ibid* A. D. 710.
⁵ *Ibid*. A. D. 800.

The Inter-marriages of the British, English, and Scots, which Mr. Pety calls the Great Union, are fictitious Non-sense.

P. 8. 9.

P. 8.

Concil. vol. 1. fol. 220.

The Tale of Guala not allowed by Sir Hen. Spelman.

* See Monast. Angl. vol. 1. f. 14. n. 40. to the same purpose.

King Ina and his last Wife, Ethelberg, both died in Monastick Habits.

Nota.

P. 9. fol. 75. A great Council, A. D. 905. procerum & populorum.

Why the word Fidelity is thus turned, see Glossar.

sense of the Intermarriages between the British, English, and Scots, is not worthy any serious mans notice; and yet this Gentleman calls them a Grand League and Union between the Britains, Saxons, and Picts, and grounds his third Instance upon it, saying, That Grand League and Union was concluded and confirmed, *per commune Concilium & assensum omnium Episcoporum, Procerum, Comitum, & omnium Sapientum senicrum & populorum per præceptum Regis Ina*. The very words he hath taken out of the Body of this Fable to serve his purpose, which he cites both in this and the forgoing Instance. And that he might the better make two instances out of one, and Deceive his Reader, he cites Bede's Ecclesiastick History, lib. 1. for the Report of this League and Union, where, if he finds it, he hath better luck than I have.

Now what follows, but that if this Story be idle and fabulous, it would be as idle a thing for any man to think, there was ever so grave, so solemn an Assembly convened, to contrive, frame, and ordain it: and the truth is, this Gentleman, if he had pleased, might have seen this same Council rejected as it were by his own Author Sir Henry Spelman, *De secundo seu ultimo hoc conjugio Ina Regis, &c.* concerning this second or last Marriage of Ina King of the West-Saxons (saith he) with Guala the pretended Daughter of Cadwallader King of the Britains, and from thence the name of Cambria being changed into Wales, I find no mention of it in any approved Author, or that Ina had any * other Wife than Ethelburg, which was certainly his last, and she, as appears by her name, a Saxon; for when he at Rome took upon him the Habit of a Monk, she was made a Nun, and at last Abbess of Barking, in which Habits they both died; and adds further, that for the Time and Authority of this Council, he could say nothing. And I do affirm, That of the many Councils collected in this Volume by him cited, there is not the word *populus* to be found either in the Title, Preface, or Body of any of them, except only in this spurious one, or any thing that tends towards the proof of the Commons of those times to have had any share of making Laws in those Councils.

The fourth Instance he hath out of the British Antiquities, A. D. 905. *Plegmundus Cantuariensis Archiepiscopus una cum Rege magnifico cognominato Edwardo seniore, Concilium magnum Episcoporum, Abbatum, fidelium, Procerum, populorum in Provincia Serbilozum Conlocant, &c. Unde salubriter constitutum est, in hac Synodo; ut pro duobus Episcopis, quorum unus Wintonia, alter Sireburnia sedem habuit, Quinque crearentur Antistites, ne grex Domini pastorum curâ orbatus, Luporum Laniena & voracitati subjicerentur.* That is in the year of our Lord 905. Plegmund Archbishop of Canterbury, together with the magnificent King Edward, surnamed the Elder, called a great Council, of the Bishops, Abbots, Tenants in Capite or Military Service, Noblemen and People in the Province of the West-Saxons, when it was wholsomely ordained in this Synod, That instead of two Bishops, one whereof had his Seat at Winchester, the other at Sherborn, there should be Five created, lest the Flock of the Lord being without Pastors, should become a prey to voracious and devouring Wolves.

A The occasion of this Council, as 'tis storied, was a chiding and threatening Letter from Pope *Formosus* to King *Edward*; That if there were not Bishops appointed in such places as there had been formerly, both he and his should be subject to his *Malediction*. *Qua de causa* (says the *British Antiquities* in the same Folio from whence this Instance is taken, N. 30.) *Edwardus Rex Synodum predictam Nobilium Anglozum congregabit cui presidebat Plegmundus*. For which cause (to wit, as 'tis there said for fear the Pope should curse him and his Subjects) King *Edward* called the foresaid *Synod* of *English Nobility*, wherein *Plegmund* presided; Here his own Author tells us in few words, the meaning of the long Title of this *Synod*, which just before he had mentioned, *viz.* that the *Bishops, Abbots, Fideles, Proceres, & Populus*, were all *Nobiles, Noblesmen*, That is the *Ecclesiasticks* and *Laics*, or the *Bishops*, and *Lay-Nobility*, as will be made more evident in this Discourse hereafter; and not the *Vulgus, Commons*, or ordinary sort of People.

Vid. *Monast. Angl.* vol. 1. f. 220. col. 2.

Populus interpreted by the Relator, and in the Relation of the same Council.

B And to this effect *Malmsbury*, the Manuscript in the *Bodleian Library* cited by *Dugdale*, and the MS. in the Treasury of the Records and Evidences of the Church of *Canterbury*, cited by *Sir Hen. Spelman*, all report of this very Council, That *Edwardus Rex congregavit Synodum Senatorum gentis Anglorum cui presidebat Plegmundus, &c.* That King *Edward* convened a *Synod* of the *Senators*, (in *Saxon* the *Aldermen*) of the *English Nation*, That is, such as were usually called to such Councils, which were only the *Nobiles* and great Men, for ought yet appears from this Instance. But further, all these Authors say, this *Synod* was called upon a Letter the King received from Pope *Formosus* in the year 905. There was but one Pope *Formosus*, and he died *December 14. 895.* ten years before this *Synod* is said to be called, and so perhaps there was never such a Letter written, nor such a *Synod* called, and consequently no such Title of a *Synod*. For all these Authors (to whom I appeal) report nothing else done in this *Synod*, then making or naming five Bishops, as is above related; Though our Author affirms there were several Laws then made, which if he can, he ought to make good to save his Credit.

De gest. Reg. fol. 26. a. n. 30, 40. *Monast. Angl.* vol. 1. fol. 220. col. 2. n. 10. *Concil.* vol. 1. fol. 387. Earls and great Officers of the Kingdom.

Onuphr. Chro. Pontif. Rom. fol. 27. 'Tis probable there was no such Council, A. D. 905.

P. 10.

E After these Instances, he says, *William* of *Malmsbury*, calls a *Saxon Wittena-Gemote*, * *Generalis Senatus & populi conventus*. There is no need to be taken how our old Monks and Historians stiled the *Saxon Wittena-Gemotes*, or their great and *Common Councils*, for the same Authors expressed them some time one way, some time another; nor were they ever exact and curious in observing and noting the Title or the *Constituent parts* or *Members* of them: our Author himself hath reckoned up above forty Denominations of the *Saxon Wittena-Gemotes*, or great *Councils* and *Parliaments*, and might have given us many more; and if he will frame an Argument from the Appellations of them, it must be against himself; for amongst those he hath mustered together, there are not above two or or three he can pretend to make use of, and they, truly understood, signifie nothing to his purpose; all the other are directly against him; as the Reader may note if he please.

* De gest. Reg. lib. 3. fol. 56. a. n. 30. No heed to be taken how the old Monks and Historians stiled a *Saxon Wittena-Gemote*.

As appears by his own shewing, P. 97.

P. 10. vid. Glossar.

Gloss. fol. 61.
col. 1. p. 10. ut
supra.

See Folk-mote
in the Glossar.

Ll. Gul. 1. c.
52. Ll. Edw. c.
35. in Aucar.

P. 12.

The Prefaces
of the Saxon
Laws declare
what sort of
people were
the Constitu-
ent parts of
their Wittena-
Gemotes.

Saxon Annals
in those years,
Lamb. Saxon
Laws, fol. 1.

* 'Tis in the
Saxon, *Æw*
Nuptia, but
seeing there is
no Law for
Marriages a-
mongst these,
I took it to be
misprinted for
Æ Leges, and
have so tran-
slated it.

(a) Lamb. fol.
22.

Ælfrid began
his Reign, A.
D. 871.
Ibid. fol. 36.

Ibid. fol. 41.
He began his
Reign, A. D.
900.

To this he adds the Description of a *Folk-mote* or Convention of the People, out of Sir *Hen. Spelman*, Conceals the Title of it, and imposeth it upon his Readers as a *Wittena-Gemote*, a Convention of the Nobles or Wisemen. This being the same with the *English Saxons*, that a Parliament is with us, and called at the Will of the King in *Contingent Difficulties*, or for making of Laws, whenas the *Folk-mote* was at least *annual*, and met upon the same certain Business. So much of the Description, as he useth, runs thus, The Chief of the Kingdom met, as well Bishops as Magistrates, and Freemen, they consult of the Common safety, of Peace and War, and Promoting the Common profit or Benefit. He leaves out of this Description the great Design of this *Folk-mote*, which was to Swear Fealty or Fidelity to the King, to serve him faithfully, and defend all his Rights against his Enemies and Strangers; and picks out of it what he thought would be most for his purpose. From these Fragments, and doubtful Expressions (of which his Instances consist) It is apparent, he says, and past all contradiction, that the Commons in those Ages were an Essential part of the Legislative Power in making and ordaining Laws.

We have many of the *Saxon Laws* extant made during the Reigns of several of our *Saxon Monarchs*; in the Prefaces whereof, we are told, by what Authority, what sort of People, and by whose advice they were made. Why did not this Gentleman raise his Proofs from hence? Why did he leave the Kings High-way and walk in by-paths? to find and cull out some slight Sentences and careless Expressions that sound like something he would assert, and leave all the substantial and valuable Instances behind him which are contrary to his Assertion. What I find in the *Saxon Laws*, I shall briefly recite in opposition to what he maintains.

First, *Ina* who began his Reign *An. Dom.* 689. and ended it 728. in the Preface to his Laws says, *I Ina by the Grace or Gift of God, King of the West-Saxons, with the Advice and Instruction of my Father Kenedred and Hedde my Bishop, and Erchenwold my Bishop, and all mine Aldermen, and Tham Ylderstam Witan Minre Theod, the principal or chief Senators or Wisemen of my Nation, and also the great Assembly of Gods Servants (the Clergy then so called) meditating the Health of our Souls, and upon the Estate or Establishment of our Kingdom, have Established Right * Laws, and Right Government through our Nation.*

^a *Ælfred* after him, by the advice and assistance of his Wisemen *Mid Witena Getheate*, surveyed all the Laws of *Ina*, *Offa*, and *Ethelbert*, and such as he liked, he ordered to be observed, and others he caused to be laid aside, and then shew them to all his Wites, Noble, or Wisemen, who liked they should be observed. Also in the League between him and *Guthrun*, it is thus recorded, *This is the Peace that Ælfrid King, and Guthrun King, and all the English Wites, and those of the East-Angles have declared.*

The Constitutions between *Edward* the Elder, and *Guthrun*, were approved by the Wites or Wisemen on both sides.

Æthelstan

Ethelstan made his *Laws* in the *Micel Synod* at *Greatan-Leage*, and there was *Wulphelm* his Archbishop, all his *Optimates*, *Noblemen*, *Wites*, or *Wisemen*, by him Convened.

Ibid. fol. 53. He began his Reign, A. D. 924.

King *Edmund* deliberated and made his *Laws* by the advice of his *Wites* or *Wisemen*, both Ecclesiastick and Laics.

Ibid. fol. 58. He began his Reign, A. D. 940.

A King *Edgar* ordained his *Laws*, with the advice of his *Wites* or *Wisemen* only.

Ibid. fol. 62. He began his Reign, A. D. 959.

King *Ethelred* and his *Wites* made his *Laws* only.

Ibid. fol. 88. A. D. 979.

King *Cnute* or *Canute* made his *Ecclesiastick* and *Secular Laws* by the advice of his *Wisemen* or *Wites* only.

Ibid. fol. 97 & 107.

B Besides these, I shall present the Reader out of History with some other of the great *Councils* or *Witena-Gemotes* in the *Saxons* time, by which he may understand whether 'tis probable they consisted of *Nobles* and *Commons*, or *Nobles* only.

He began his Reign, A. D. 1016.

From History 'tis clear of what people the *Witena-Gemotes* consisted.

Withlaf King of *Mercia* signed his large Donation to *Croyland* Abby, before the *Bishops* and *Great Noblemen* of all *England*, who met at *London*, *An. Dom.* 833. to consider how to prevent the *Danish* Piracies.

Ingulph's Hist. fol. 488. n. 30. *Withlaf* was a Tributary,

and under the Power of *Egbert*, *Dominus*

ejus, Ibid. n. 50. He was Tributary to *Ethelwolph*.

Ibid. b. n. 40. Ibid. 489. a. n. 30.

Ibid. 490. a. n. 20, 50.

Ibid. fol. 497. a. n. 40, 50.

Note who were *Magnates Regni*.

Totius Regni *proceres* & *optimates*.

Bertulph King of *Mercia* his Successor confirmed and enlarged that Donation before the *Bishops* and *Nobles* of his whole Kingdom, being the *Common Council* of his Kingdom, with the consent of that whole Council, *A. D.* 851.

D *Edred* King of all *England*, gave the *Monastery* of *Croyland* to *Abbat Turketul*, and his Monks, by his Charter dated, *In Festo Nativitatis B. M. Virginis An. Dom.* 948. *Cum uniberſi magnates Regni per Regium Edictum Summoniti, tam Archi-Episcopi, & Episcopi & Abbates, quam ceteri totius Regni proceres & optimates Londoniſ Conveniffent ad tractandum de negotiis publicis totius Regni.* That is in the Feast of the *Nativity* of *Blessed Mary* the *Virgin* in the year of our Lord 948, when as all the *Great Men* of the Kingdom, were summoned by the *Kings Edict*, as well the *Arch-Bishops*, *Bishops*, and *Abbats*, as other *Noble* and *chiefest Men* of the whole Kingdom, and met at *London* to treat of the publick Business of the whole Kingdom.

Ibid. 490. a. n. 20, 50.

Ibid. fol. 497. a. n. 40, 50.

Note who were *Magnates Regni*.

Totius Regni *proceres* & *optimates*.

F Where are the *Commons* to be found in any of these *Great Councils*, or *Witena-Gemotes*, or any that Represented them? Here are only mentioned *Arch-Bishops*, *Bishops*, *Abbats*, *Aldermen*, *Wites*, *Great Men*, and *Chiefest Men*, *Noble-Men*. These were all the orders of Men that were Constituent parts of these *Great Councils* or *Gemotes*. And if the *Commons*, as now taken and understood, ever were Members of them, they must be comprehended amongst the *Wites* or *Sapientes* the *Wisemen*; But that it cannot probably be so, I shall note:

No Commons to be found in the *Saxon* great Councils or *Witena-Gemotes*. Nor any that Represented them.

The Commons not comprehended amongst the *Wites* or *Sapientes* in the *Saxon* Councils.

First,

First, That most of the *Saxon Laws* in their Prefaces are said to be made, and ordained by their Kings, with the advice and assistance of their *Wites* or *Wisemen* simply, without mentioning any particular *Orders* of *Men* whatsoever. And when any *Ranks* or *Degrees* of *Men* are particularly mentioned, they are only *Arch-Bishops*, *Bishops*, *Aldermen*, *Great Men*, *Wites*, *Chief-men*, *Noble-men*, as before rehearsed, both *Ecclesiastick* and *Laick*.

Secondly, I shall Note, that it cannot be denied but in every one of these *Witena-Gemotes*, *Bicel Synods*, *Bicel Gemotes*, or *Great Councils*, where the *Laws* are said to be made only by the *King* and *Wites* or *Sapientes*, without particularizing any *Degrees* of *Persons*, the *Bishops*, *Abbats*, and *Great Clergy-men*, *Aldermen*, and *Gereves*, were there at the making of them; and also the honorary *Thegnes* or *Thanes*, and the *Judges*, if any there were of the higher Class, other than *Bishops*, *Aldermen*, and *Gereves* or *Prepositi*.

And, Thirdly, I shall Note, that it follows from thence, that these all joyntly were the *Sapientes*, where there are only *Wites* or *Sapientes* in general named, without reciting any particular *Orders* or *Degrees* of *Men*.

See *Sapientes*
in the Glossa-
ry.

This is clear of it self, yet for the greater satisfaction of any that can doubt of it, I shall in the *Glossary* give many particular Examples of the meaning of *Wita*, *Witan*, *Sapientes*, &c. out of the *Saxon Laws*, and our approved ancient Authors, by which it will manifestly appear, That the *Commons*, especially as now taken and understood, cannot be comprehended under those Words.

See vit. *Æl-*
fred, lib. 2. in
the Epilogue
fol. 124.

Yet notwithstanding what is here, and will be further cleared and proved in the *Glossary*, by giving the true meaning of the Words *Witan*, *Wites*, or *Sapientes*, That they in the *Saxon Witena-Gemotes*, were only *Arch-Bishops*, *Bishops*, *Masse-Thegnes*, or *Dignified* and *Great Clergy-men*, *Aldermen*, or *Comites Kings-Gereves* or *Prepositi*, *Kings-Thegns*, *Thanes*, or *Ministers*, his *Counsellors*, *Judges*, or *Magistrates*. If this Gentleman can shew from good Authority (better than any he hath yet produced) That any of the *Commons* sate in these *Great Councils*, at least to Represent the *Body* of the *Commons* of the *Saxons*, I will submit, and yield, That during the *British* and *Saxon Governments*, the *Freemen*, or *Commons* of *England*, as now called and distinguished from the *Great Lords*, were an *Essential Constituent* part of the *Witena-Gemotes* or *Common Councils* of those Ages; as this Gentleman avers, and labours to prove by such Arguments, as I hope I have fully answered.

William

William the Conqueror.

A From the Saxons we proceed to the Normans, where I find this Gentleman, as indeed there are many more, mightily possessed with the **Lenity** of William the Conqueror, for such he must be notwithstanding what is said by him, That he disown'd his Conquest, or rather submitted his Government and Scepter to the Saxon Law, and from this or nothing, he infers the Commons to be an Essential part of the great Councils, but with what consequence the Reader is to judge; however I will examine the easiness and kindness of William in denying the length of his Sword, and the Arguments he brings to confirm his Opinion; I leave his ridiculous Notation of the word Conquestor, and pass to the Reasons for his Opinion.

P. 17, 18, 19, 20, 21, 22, &c.

William the First obtained this Land by Conquest, and Governed it accordingly.

B First, he says, 'tis recorded in Domesday Book, that King William had certain Lands in Demesne, the Lands which were in the hands of King Edward, and intituled, **Terre Edwardi Regis**, and other Lands which were forfeited by him, by those who took part with Harold, intituled **Terre Regis**. This he hath out of Sir John Davis's Irish Reports, fol. 41. a. b. And it is a great mistake; for there is no such Title in that Book as **Terre Regis Edwardi**; Of **Terre Regis** there is, first in every County in the top of the Leaves, which were the Lands of the Conqueror; for the truth of this I appeal to the Books. Here also he affirms King William kept the Lands of King Edward in his hands or own use, as Edward had done before him, which is as true as the other; for Roger Earl of Shrewsbury, as Earl and Governor of Shropshire, had many Houses in Shrewsbury, and 47 Berwites (Hamlets or Villages) that belonged to the County, besides very many other Lands, a great part of the County which Rex Edwardus tenebat, King Edward held. Hugo de Port had many Lands which were King Edwards in Hantscire, and many others through the whole Book of Domesday, to which again I appeal.

P. 23.

Can any man forfeit his Lands to a Stranger, a Conqueror that could not pretend Title but by Violence and Conquest.

No such Title in Domesday Book as Terra Regis Edwardi. Vide Domesday Scyropshire terra Comit. Hantscire Terra Hugon de Port in Fordring-bridge Hundr. Domesday, fol. 44. b.

E But if all this were true, how doth it prove William No Conqueror, or his Assertion.

F But his huge Argument is the **Famose Legend**, and **Trite Fable** of Edwin of Sharnborn, told, says Camden, by all such as would have William to have possessed England by Pact and Bargain with the People, and not by Right of War, or the Sword. The Story as he hath it here, and as Sir Edward Coke often, Sir John Davis, and others have it, is thus. Edwin of Sharnborn, who had lost his Estate at Sharnborn by the Conquest, and being given to William de Warrenna, came before the Conqueror and Pleaded, that he never was against the King, either before, or after he came in, and by the Kings order had his Estate again; Sir William Dugdale in the first Tome of his Baronage, hath this Story otherwise, and says, That notwithstanding the Kings Mandate, all he could get was to become Tenant to Warren, and William de Albins of part of his own Land, under certain Services, and he is there called Edwin the Dane, and

Britain, fol. 350. The Legend of Edwin of Sharnburn.

Fol. 18. col. 1. out of the Book of the Family of Sharnborn.

Bracton, lib.

1. c. 11. n. 1.

Fleta, lib. 1.

c. 8. n. 2.

How the Sax-
ons held their
Lands both
before and af-
ter the Con-
quest.

fol. 6. n. 10.

This Survey
was begun in
the 14th, and
finilhed in the
20th of his
Reign.

Vid. Terr. Wil-
lielmi de War-
ren & Episcopi
Baiocens. in
Norff.

Edwin no
Proprietor
in Norff.

and this (if any) is most likely to be true, being taken out of the Book sometime belonging to the Family of the *Sharnborns*. Here we see he applied himself to *William*, but got not the Propriety of his Estate; what he obtained was but to hold it from others; and this was then a common practice, as *Bracton* and *Fleta*, two of our most ancient Lawyers, and one of them at least a Judge, do inform us. That at the time of the Conquest, there were *Freemen*, that held their Possessions *Freely*, by *Free Services* and *Free Customs*; and when they were thrown out of them, afterwards returning to them, received their own, and the very same Tenements or Possessions, to hold in Villanage by performing Servile works, but such as were certain and nominated; to this may be added, what *Mat. Paris* says, that King *William* gave liberally to such as were with him in the **Battel of Hastings**, when he Conquered *England*; and that little which was left, he put under the Yoak of perpetual Servitude: yet further, as to this particular Report of **Sharnborn**, there could be no such thing, for his name is not to be found as any Proprietor in *Norfolk*, or in *Sharnborn* in *Domesday Book*, or the Conquerors Survey, and the Owners of *Sharnborn*, which are there only to be found, are *William de Warrenna* (from whom this Story says it was restored to *Edwin*) *Odo Bishop of Bajeux Bernerius Arbalistarius* and *William de Pertenai*; whence it is evident, that *Warren* and others were possessed of these Lands in the 20th of the Conqueror, not long before he died, and no *Edwin* to be found as Proprietor of any of them, or other Lands; nor is the name of **William de Al-
bini**, or **William Pincerna** to be found as a Proprietor in *Norfolk*, or in *Domesday*, though this *MS.* of the Family of **Sharnborn** says he had that Village and several **Towns** thereabouts given him by the **Conqueror**; by which it appears, that this Report is ground-
less.

P. 26.

Our Author says this is cited almost as the only Case and Act of favor the Conqueror did; and adds, that for men to think so is a great mistake, and that he could give many Instances of the like Nature out of **Domesday Book**. But if he finds this there, or any one **Plea**, or **Grant** of the like nature, instead of many he speaks of, I will allow him to be a man of a very sagacious Invention; **Pleas** there are many between Man and Man, and between the *King* and others, but none like this. I shall give an example or two to illustrate them.

The way and
manner of the
Pleas in
Domesday
Book.

*Clamores in Northtreding in Eurvicscire In Limberge clamat Ivo Tal-
lebofc super Regem vi. Bovat. Terre Dicunt homines Comitatus quod
ipse debet habere terram & Rex Socam.* That is, in Limberge Ivo
Tallebofc Claymes upon the King vi. Bovates or Oxeganges of Land;
the men of the County (**the Jury**) say that he ought to have the
Land, and the King the Soke or jurisdiction upon it. *Clamores in
West-treding super Drogonem clamat Norman de Adreci iij Bovat.*
*Terre in Normanby, dicit Wapentachium quod ipsius debet esse terra, &
Drogonis Soca.* That is, Norman de Adreci claims upon Drogo iii.
Oxeganges of Land in Normanbe, the Wapentach says that Land
ought to be his, and the Soke Drogo's. And many the like; all
which Judgments and Controversies were amongst the **Normans**,
as may be easily perceived by their Names, and the Judgment of the
Court,

Court, Hundred, or Wapentack most commonly was grounded upon the Sight of King Williams Seal, his Writ or his Commissions; by which, or some of them, it appeared to be so, as I could make it out, if it were proper to do it in this place.

A The 3d Argument he useth upon this Head, is the Assertion of a great Lawyer and Judge in *Edward the Third's* time, admitted and agreed as a Rule of Law and truth by the Judges, and transmitted to Posterity, being spoken in an Objection made in a *Quo Warranto* against the Abbat of *Peterborough*. *Le Conqueror*, (saith the Judge) *ne vient pas par Ouster eux qui avoient Droiturel possession, mes de Ouster eux queux de leur tort avoient occupie ascun terre en Disheritance del Roye & son corone*. That is, the *Conqueror* came not at all to out those which had right Possession, but to out those which by their wrong doing had occupied any Land in Disheritance of the King and his Crown. I shall not inquire whether this be admitted as a Rule of Law, or whether the Judge that said this, believed it himself: Sure I am, that if this Gentleman be so well acquainted with *Domesday Book*, as he pretends to be, he cannot believe it, nor any one that ever perused it but one half an hour.

C Were the 793 Mannors *Robert Earl of Bozeton* in *Normandy*, and *Cornwal* in *England* had given to him by *King William*, only Lands that had been kept from the Crown? Were *Alan Earl of Britain*, and *Richmonds* 442 Mannors given him by the *Conqueror*, Lands with-held from the Crown? Were *Geofrey Bishop of Constance* his Lands 280 Mannors, Lands of the like nature? Were all the *Normans* great Estates in every County such Lands as those? In *Domesday* the names of the great Proprietors are entred in every County before the particular description of their Lands, and mention of their under Tenants: What became of all the Lands of the *Saxon Nobility*, their *Great Earls*, *Chanes*, *Middle-Chanes*, &c. Were they not given to the *Normans*? Did they not all take their Title from *King William* and the *Sword*?

E Had the *Saxons* all of them invaded the *Crown-Lands*, and made up their Estates out of them? Were the *Whole County of Chester*, given by the *Conqueror* to *Hugh de Abzuncis* his Kinsman, and a *Norman*, *Crown-Lands*? Were the greatest part of *Shropshire* given to *Roger de Monte Gomerico* a *Norman*, *Crown-Lands*? Whoever reflects upon these things, must acknowledge this Judge to have been very ignorant in the *History* of this *Nation*, or that he spoke the words out of *Design*, and that which way soever it happened, his Assertion was not a fit Foundation to build a Rule of Law upon. And 'tis a great Argument he studied, and knew only *Popular*, and *Lucrative Law*, and not the *Constitutions* of the Nation before his own time. What remains in this Discourse about the *Conqueror*, That he claimed not by the *Sword*, but was elected, &c. which he would fain prove out of the Fragments of some Authors that lived at some distance of time from his coming hither, I shall prove from undeniable Reason and Authority, that he Governed the Nation as a *Conqueror*, and did so live, and did so take, and repute himself to be.

P. 26.
Judge *Shardelowe*.
A Rule of Law and truth averred by our Author.

Large Estates given to the *Normans* by the *Conqueror*.
It appears by Enumerating the several Towns and Mannors they possessed in several Counties. *Domesday* in several Counties. And they were no *Crown-Lands*.

Had *Sharnborn's* Plea been good, doubtless there were many in these parts and Possessors of these Estates, that might have said they never opposed *Duke William* either *Consi*o vel auxilio.

William first Governed as a *Conqueror*, and did so take and repute himself to be.

The chief Justice and other Officers of the Law all Normans.

It was so until it was itered by Stat. 36 Ed. 3. c. 15. and this is the true Reason why all our old Laws and Pleadings were in Norman French.

Reading de finibus, P. 3.

Ibid.
Our ancient English Laws came from Normandy.
Spelm. Gloss. fol. 218.
Our ancient Tenures were from Normandy.
See Grand Custom throughout Scriptor. Norman. fol. 1037.
Cum Willielmus hanc terram primo devicit non solum in possessiones victorum, sed in Maternas & virgines insanire cepit.
Ead. Hist. Nov. fol. 57. n. 40.
* Leicester's Cheshire, and
* Transcript. of Domesday, there fol. 431.
William I. gave most of the Estates of the English to his Normans, &c.
* Append. n. 10.

This appears first by his bringing in a *New Law*, and imposing it upon the People, and 'tis clear he did so: The *Justiciaries* or *Chief Justices*, the *Chancellors*, the *Lawyers*, the *Ministerial Officers*, and *Under Judges*, *Earls*, *Sheriffs*, *Bailiffs*, *Hundredaries*, were all *Normans*, from his first coming until above 100 years after, as I can make it out, by particular Instances, and undeniable Reason, were not the Catalogues too long to be here inserted. If therefore the *Justiciaries*, *Chancellors*, *Earls*, *Sheriffs*, *Lords of Minors*, such as heard Causes, and gave Judgment were *Normans*, if the *Lawyers*, and *Pleaders* were also *Normans*, the *Pleadings* and *Judgments* in their several *Courts* must of necessity have been in that *Language*, and the *Law*, also the *Norman Law*, otherwise they had said and done they knew not what, and Judged they knew not how; especially when the Controversies were determined by *Military Men*, *Earls*, *Sheriffs*, *Lords of Bannors*, &c. that understood not the *English* Tongue, or *Law*; or when the chief *Justiciary* himself was a *Military Man*, as it often happened, and understood only the *Norman Language*, and 'tis hardly to be believed these men would give themselves the trouble of learning and understanding the *English Law* and *Language*; yet perhaps some men may think they came by the knowledge of the *English Law* Sir Edward Coke's way, by *Revelation*, who galled with an Argument (that he could not answer) that our *English Laws* were the *Norman Laws*, tells us the *English Laws* cannot be said to be written in the *Norman Tongue*, for the *Laws of England* are (*Leges non scripte*) Laws not written, but divinely cast into the hearts of Man.

Secondly, Though we have many *Laws* and *Customs* from the *Northern People*, and North parts of *Germany*, from whence both *Saxons* and *Normans* came: yet after the *Conquest*, the Bulk and Maine of our *Laws* were brought hither from *Normandy*, by the *Conqueror*. For from whence we received our *Tenures*, and the Manner of holding our *Estates* in every respect, from thence also we received the *Customs* incident to those *Estates*. And likewise the quality of them, being most of them *Fendal*, and enjoyed under several *Military Conditions*, and *Services*, and of necessary consequence from thence, we must receive the *Laws* also by which these *Tenures*, and the *Customs* incident to them were regulated, and by which every mans right in such *Estates* was secur'd according to the nature of them. But from *Normandy* (and brought in by the *Conqueror*) we received most, if not all our ancient *Tenures*, and manner of holding and enjoying our *Lands* and *Estates*, as will appear by comparing our *Ancient Tenures* with theirs.

And further, he took away from the *English* their *Estates*, and gave them to his *Normans*; and this he did from his first coming in; *Fitz-Osborn* was made *Earl of Arundel* and *Hereford* at his first coming in, and was *Lord of Bretevil* in *Normandy*, and established the *Laws* of that *Town* at * *Hereford*. *Alan Earl of Britain*, had all *Earl Edwins Lands* given to him at the *Siege of York* three years after his arrival; and he had distributed most of the *Lands* of the Nation to his *Normans*, long before the *Survey* was begun, and by that infallible Record it is clear, * that he gave near all the *Lands* of the Nation to his Followers, and very little or none to the

English,

A *English*, who held what they had by a new Title, and new Services from the Conqueror, or his great Lords, or became Tenants to, or Drudges upon their own Lands, as we heard before from *Bracton* and *Fleta*. Here is enough to satisfy any unbiassed Person, that the Conqueror did not lay by his Sword after the *Battle of Hastings*. Yet, for further satisfaction; I shall confront his Authority, with the Testimonies of such Authors as lived in the time, and could not but know how he Governed, and what he did.

B **Eadmer** a Monk of *Canterbury* at the time of the Conquest, a great Companion to *Arch-Bishop Lanfranc*, and was with him when the News came of the Conquerors death, writes, That *William* designing to establish in *England* those Usages, and Laws, which his Ancestors and he observed in *Normandy*, made such Persons *Bishops*, *Abbats*, and other *Principal men*, through the whole Nation, who could not be thought so unworthy, as to be guilty of any reluctancy, and Disobedience to them; knowing by whom, and to what they were raised; all Divine and Humane things he ordered at his pleasure. And after the Historian hath recounted in what things he disallowed the Authority of the *Pope*, and *Arch-Bishop*, he concludes thus. But what he did in Secular matters I forbear to write, because it is not to my purpose, and because also any one may, from what hath been delivered, guess what he did in Secular.

C The next is the Testimony of **Ingulph Abbat of Croyland**, an *English* Man, born of *English* Parents, **Secretary** to *William* when *Duke of Normandy*, and made **Abbat** by him; he informs us, that by hard usage he made the *English* to submit; that he gave the *Earldoms*, *Baronies*, *Bishopricks*, and *Prelacies* of the whole Nation to his *Normans*, and scarce permitted any *Englishman* to enjoy any Place of Honor, Dominion, and Power.

D But more express and full to this purpose is the account we have in *Gervase of Tilbury* (a considerable Officer in the *Exchequer* in the time of *Henry II.* and who received all he knew there from *Henry of Blois* the great *Bishop of Winchester* and *Grand-child* to the Conqueror) of his dealing with the *Natives* which he thus delivers: After the Conquest of the Kingdom, and just Subversion of Rebels, when the King himself, and his great Men had viewed and surveyed their new Acquests, there was a strict enquiry made, who there were which fighting against the King, had saved themselves by flight, from these and the Heirs of such as were slain in fight, all hopes of possessing either *Lands* or *Rents* were cut off; for they esteemed it a great favour to have the benefit of their Lives; but such as were called and urged to fight against *King William*, and did not, if in process of time they could obtain the favour of their *Lords* and *Masters* by an humble obedience and obsequiousness, they might possess somewhat in their own Persons, without hope of Succession, their Children only enjoying it afterward at the will of their *Lords*, to whom when they became odious, they were every where forced from their Possessions; nor would any restore what they had taken away: when a common miserable complaint of the *Natives* came to the *King*, that they thus exposed, and spoiled of all things, should be compelled to pass into other Countries. At length, after a

Hist. Nov. fol. 6.n.10,20.30.

Eadmer's Testimony how William the I. Governed.

Hist. Croyl. f. 512.a.n.50.b. l. 1.

Ingulph Abbat of Croyland his Testimony in the same matter.

Gervase of Tilbury, or the Black Book, in the Exchequer more full and express in the same case then both the former. Lib. 1. C. de Murdro. de necessar. observ.

Note this.

Ibid.
And this.
Ibid.
How and after
what manner
the *English*
possessed
Lands after
this Conquest.

consultation upon these things, it was decreed, that what they could by their deserts, and lawful Bargain obtain from their *Lords*, they should hold by inviolable Right, but should not claim any thing from the time the Nation was Conquered, under the Title of Succession or Descent: Upon what great Consideration this was done, it is manifest, says *Gerbase*, when as they were obliged upon a studied compliance, and obedience, to purchase their *Lords* favour; so therefore, whoever of the Conquered Nation possessed Lands or such like, obtained them not as seeming to be their Right by Succession, or Inheritance, but as a Reward for their Merits, or by some intervening Agreement.

A

And this.

Adventurers
with Conque-
rers expect
Shares in the
Conquest.

William the I.
claimed by
the Sword,
and made an
absolute Con-
quest.

And now let me ask this Gentleman, Was it not *William Duke of Normandy* did these things? Did he not think, forecast, and contrive how to do them? Was he asleep when they were done? Were they not done by the advice of his great *Officers*, and *Counsellors*, his Great *Lords*, and *Barons*? Can it be reasonably imagined that he and they should give way to, or establish such Laws as would undo, and destroy their own Settlement? Or can it be thought he never intended to gratifie the Adventurers with him in this Expedition, the *French*, *Flemmings*, *Anjobins*, *Britains*, *Poitabins*, and People of other Nations, who made up a great part of his Army, and came with him under great and considerable Men their Leaders? Or that they should expect nothing? Can any man affirm they came out of *stark love*, and *kindness*, without any consideration of *sharing* with, and under him in the Conquest? Whosoever answers these Quæries justly, and truly, must acknowledge that *William* did claim no otherwise than by the Sword, and made an actual Conquest.

B

C

Ingulph. fol.
512. b. n. 40.
Williams best
Title from
the Sword.
What made
Williams Con-
quest of *Eng-
land* easie to
him.

The pretence that he claimed from *Edward Jure Hereditario*, is idle, unless it were *Jure Hereditario*, *Testamentario*; for neither was he Heir to *Edward*, or *Edward* Heir to the Crown by Descent. Notwithstanding the Gift, or Grant of the Crown from *Edward*, yet he thought the Sword was his best Title, and the other meer pretences to catch the People. The things that facilitated his Conquest, were the *Factions* among the *Saxon*, and *Danish Nobility*, and People; the *Popes* encouragement, and siding with *William*, and the inclinableness of the Clergy to his Cause; who were the Men that then had the great power over, and influence upon the People.

D

E

Not. ad eadem.
fol. 173.

Ibid. fol. 172.
189.

Hist. Croyland
in fine.
King Edward's
Laws.

But still our Author urgeth that King *William* granted that *Edward* the *Confessors Laws* should be observed, and pitcheth upon those put out by *Selden*, who took them from the Copy preserved in *Croyland Abby*, which only he judgeth Authentick: The other put out by *Lambard*, and Printed in *Ro. Hoveden* he rejects: What these *Laws* were let us hear *Ingulph* himself. *I brought with me* (says he) *from London the Laws of the most illustrious King Edward, which my Lord King William would have to be Authentick, and Perpetual through all England, and to be observed inviolably under grievous punishments, which were published, or proclaimed in the same Language they were written, lest by our ignorance we might incur the great danger, and most rigid Censures and Penalties of them.* 'Tis clear from the very words of *Ingulph*, that these were only the

F

Penal

A Penal Laws of King Edward, and indeed the Laws themselves, in number 50 only, Printed in the old Norman Idiom are all Poenal Laws, and such as concerned Criminals (nothing to our Authors purpose) except three or four about Reliefs, and one about Distresses of small moment, and these are all Selden (says Ingulphs Copy) affords, but that there were many others he likewise says in Old Rolls and Parchments, of which he had the best Copy, and hath tacked it to the rear of these, and proceeds in order with the 51 Title and Law, and so forward.

Were mostly Poenal Laws.

B And amongst these he finds a Branch of the Conquerors Magna Charta, which he thinks does him great Service. The words are these, *Uolumus etiam ac firmiter precipimus & concedimus ut omnes liberi homines totius Monarchie regni nostri predicti habeant & teneant terras suas, & possessiones suas, bene & in pace liberè ab omni exactione injusta & ab omni Tallagio ita quod nihil ab eis exigatur, vel capiatur, nisi servitium suum liberum, quod de jure nobis facere debent & facere tenentur, & prout statutum est eis, & illis a nobis datum & concessum jure hereditario, in perpetuum per commune concilium totius Regni nostri predicti.* That is, We will, and firmly command, and grant, that all Free-men of the whole Monarchy of our Kingdom, may have and hold their Lands and Possessions well and in Peace free from all unjust Exactions and Tallage, so as nothing be exacted or taken unless their free Services, which of right they ought and are bound to perform to us; and as it was appointed to them, and given and granted to them by us as a perpetual right of inheritance, by the Common Council of the whole Kingdom.

P. 32, 33. The Conquerors Magna Charta examined.

D This Common-Council will not help him, for without doubt here was no English men in it; certainly they would not grant away their own Lands to Strangers. These were the Saxon Lands which William had given in Fee to his Soldiers to hold them under such Services as he had appointed them, and that by right of Succession or Inheritance, which right was not very frequent amongst Feudatories, or Military Tenants, in those days: but mostly they held their Lands at the Pleasure of the Lord or Patron. And this he did to endear his Followers to him, and this was no Magna Charta made to English Men, as this Gentleman and most others mistake it to be; and here also upon the same Account he granted their Lands should be free from all unjust exactions and Tallage, that is, from all extraordinary hard Impositions and Taxes; for so Tallagium signifies, not their ordinary Scutagia and Auxilia, Scutage or Aids; and good reason for this, when they served on Horseback themselves, and found King William so many Knights or Horsemen as he had appointed them, at their own Charge, whenever he commanded them.

E F And these liberi homines Free-men, here mentioned, were such as held in Military Service, though our common Interpreters make them the same with our Free-men at this day; which is a gross mistake: for these Free-men in this Law, can be no other than such as are mentioned in the 58th Law here following, and they were such as held in Military Tenure, though not Knighted, for such as were, are called Milites, and the other liberi homines, and some-

See Liber or Liberi homines in Glossar.

Freemen in the Confessors Laws amended by William, who they were.

some-

Law 58 explained.
Are there any
English Earls,
Barons, or
Knights in
Domesday
that had
Estates.
If there be,
lets know
their names
and number,
they are soon
told, and then
it may be seen
what propor-
tion they bear
to the Nor-
mans.
The Services
of those Free-
men.

 See *Liber homo*
in Glossar.

Glanvil lib. 2.
c. 11. lib. 9. c.
7. *Grand Cust.*
c. 111. fol. 135.
b. K. John's
Magna Char-
ta, Paris, fol.
257. n. 40.
Law 59th of
the Conquer-
or explained.

See *liber homo*
in Glossar.
* K. John's
Magna Chart.
Paris, fol. 257.
n. 40.
This Law
came from
Normandy, and
in the Grand-
customer we
have an Assise
described to
be an Assem-
bly of Knights
and Sage-men
with the Bailly
&c. c. 24.

sometimes they are taken promiscuously one for another. The Law runs thus, *Statuimus etiam & precipimus firmiter ut omnes Comites Barones & Milites, & Serbientes, & Univerſi liberi homines totius Regni noſtri, &c.* The whole Law is thus aptly rendred in *English*, We ordain alſo, and firmly command, that all *Earls, Barons, Knights*, and *their Servants*, or *Eſcuvers*, and all *Freemen* of our whole *Kingdom* (the ſame words as in the 55th Law) be always fitted with *Horſe*, and *Arms* as they ought to be, and always ready to perform their whole *Service* to us, when there ſhall be need, *which they ought to do, according to, and by reaſon of their Fees and Tenures.* As we ordained by the *Common-Council* of our whole *Kingdom*. We gave and granted to them in *Hereditary Fee* (the very ſame words again) and this *Command* is not to be violated any way without full *Forfeiture*, that is, of all their *Lands and Goods*.

Here all the *Freemen* of his *Kingdom* were to perform their *Military Services*, with *Horſe* and *Arms*, according to their *Fees and Tenures*. Therefore they were *Tenents in Military Service*, (which in thoſe times were the only great *Free-men*, and that *Service* the only *free Service*) which were meant in this *Law*. And how different they were from our ordinary *Free-holders* at this day (for whom neither of theſe *Laws* were made) I leave to the Judgment of every ingenuous Reader.

Theſe were the *Men*, the only *legal men* that named, and choſe *Juries*, and ſerved on *Juries* themſelves, both in the *County* and *Hundred Courts*, and diſpatched all *Country buſineſs* under the great *Officers*, as will appear by the next *Law* with a little explication. *Statuimus etiam & firmiter precipimus* (ſaith the 59th Law) *ut omnes liberi homines totius regni, ſint fratres conjurati ad Monarchiam noſtram & ad regnum noſtrum pro viribus ſuis facultatibus contra inimicos pro poſſe ſuo defendendum & viriliter ſervandum, pacem & dignitatem corona noſtra integram obſervandam, & ad judicium rectum & Juſticiam conſtanter omnibus modis, pro poſſe ſuo, ſine dolo, & ſine dilatione faciendum.* Which is thus to be turned, We ordain and firmly command that all *Free-men* of the whole *Kingdom* be *Sworn Brothers*, manfully to preſerve and defend our *Monarchy*, or *Government*, and our *Kingdom* with all their *Power, Force*, and *Might*, and keep entire the *Dignity and Peace* of our *Crown*, and to give right *Judgment*, and to do *Juſtice* by all ways and means according to their power and ability, without fraud or delay.

The judgment they were to give, and the juſtice they were to do by this *Law* (beſides that in their own *Courts and Jurisdictions*) was principally as they were *Jurors* or *Recognitors* upon * *Aſſizes*, &c. (though ſome of the greateſt of their *Milites* were often *Sheriffs*, *Hundredaries*, and other under *Judges*, and miniſterial *Officers* of *Juſtice* in the ſeveral *Counties*.) As may be ſeen in *Glanvil*, every where, but eſpecially, *lib. 2. c. 10. 11. lib. 9 c. 7. c. 13. & lib. 13. throughout.* This of being *Suitors* to the *County* and *Hundred Courts*, &c. was a *Service* incident to their *Tenures*: Before them, many times anciently in the *County*, and *Hundred Courts*, and not privately in a *Chamber*, were executed *Deeds*,
Grants,

Grants, and Donations of Lands contained in very small pieces of Parchment, Witnessed by *Thomas* of such a Town, *John* of another, *Richard* of a third, &c. which were **Knights, & libere Tenentes in Military Service** in those Towns of considerable Estates, and not the Lower sort of the People: And this execution of Sales, and Assurances in open Court, was as publick, and notorious, and as secure, as if at that time, there had been a publick Register for them.

Brañon l. 2. c. 16. n. 12.

In process of time the numbers of these *Free-holders* increased, the great Fees being divided into small ones, by *Co-heirship*, or by *Sale*, and otherwise parcelled out, by the Kings Licence, into *Half-Fees*, *third parts of Fees*, *fourth parts of Fees*, *eight parts*, *sixteen*, *twenty*, *thirty*, and *forty parts of Fees*; which twenty, thirty, and forty parts of a Knights Fee, if we allow Land to be of five times the value, it was 266 years since the Statutes were made, that Jurors should have 20 s. and afterwards 40 s. *per annum*, besides all Charges, that sum will amount to, for a twentieth part 10 l. for a thirtieth part 20 Nobles, and for a fortieth part 5 l. but if we allow Land to be seven, or eight times the value now, it was then, (as I think we may) then each of those Sums will amount to half as much more, that is to 15, 10, and 7 l. 10 s. A Knights Fee by general Computation, before that Tenure was destroyed by Act of Parliament, being valued at 200 l. *per annum*, and in the times near the Conquest until after King *John*, 20 l. *per annum*, was the value of a *Knights Fee*, and in the middle times after the Conquest 40 l. *per annum* was the value of the same, as is evident by the Writs of our Kings of those times to distrein men of 20 l. and 40 l. *per annum*, to receive the Order of *Knight-hood*.

Knights Fees divided. See *Gloss. r. liber homo*.

The 20th part of a Knights Fee.

The parts of a Knights Fee.

2 Hen. 5. c. 3.
35 Hen. 8. c. 6.
where it is expounded.

And as the number of them increased, so they were all obliged to the same *Service* and *Suit* of Court, as well those that had a greater, or lesser share of the Fee, for though it might be here as it was in *Normandy*, that no part of a Fee above an *Eight*, was esteemed a *Member* of a Fee, and retained *Jurisdiction*, *Court*, and *Usage*, (as it is there said) yet the *Suit* to the County and Hundred Courts remained. For though very many Lands which were aliened by *Charter* from the Fee, were, and all might have been discharged, from all *Military* and other *Service* free and base, where there was enough left, to perform the *Service* of the Fee, yet *Suit* to the County and Hundred Courts could not. See more to this purpose in the *Glossary*, and the words *Feudal Law*, *Knights Fees*, *liberi homines*.

Knights Fee, see *Glossar*.
The ancient value of a Knights Fee.
Dorf. claus. 6.
Ed. 2. m. 27.
ib. 9. E. 2. m. 13.

Grand Cust.
c. 33. what was a Member of a Knights Fee.

These with the *Military* Tenents, from whom they derived their Titles, in all probability were the Men, that at first *Elected* two *Knights* in every County, out of the *Tenents* in *Capite*, and only they as Suitors to the County Court were *Electors*, when at first the Body of them began to be this way represented; and this very likely was the reason of the Statute made afterwards, 7 Hen. 4. c. 15. *An. Dom.* 1406. that the Election should be made in the County Court by the Suitors, &c. and likewise might be the reason why the Statute of the 8th of Hen. 6. c. 7. by which any Man that had 40 s. *per annum* of any Tenure, was permitted to be an *Electors*, was altered,

Military Tenents Suitors to the County and Hundred Courts.

LL. Hen. I. c.
29.

Most of the
ancient Law
was the Feu-
dal Law.
Vid. Glossar.
Feudal Law.

P. 32, 33, 34,
35.

Fol. 55. n. 40.
& 255. n. 50.

P. 39, 40.

altered, and so explained that none but Free-holders of 40 s. per annum should afterward be Electors by 10 Hen. 6. c. 2. An. Dom. 1432. with respect perhaps to the least part of Knights Fees, viz. 40 s. per annum, which were come into the hands of very ordinary men; for anciently soon after or near the Conquest, there were very few or no great Soccagers, that is, such as held great Estates in Soccage; and neither the small ones, nor the *Nativi*, or Copy-holders, were reputed *liberi*, or *legales homines* (as before mentioned) or performed the Service proper to such Military Tenents, or those to whom they had alienated part of their Fees.

The truth is, the greatest part of the ancient Law under our ancient Kings after the Conquest was the Feudal Law, brought hither by the *Normans*, under whom it was more rigidly exacted and observed than in the *Saxon* times, and that by, and upon only the *Normans* themselves. For the *English* had neither Estates nor Fortunes left, and therefore it could be no great matter to them, by what Law, Right, or Propriety, other men held their Estates. This Law, and the great Pœnal Laws and Customs then in use were brought out of *Germany* by both these People, they being Neighbours there; and if there were any usages came along with them, which seem to have no dependance upon that Law, yet without great trouble most of them are reducible to it. I have been thus long in expounding the *Magna Charta* of *William the Conqueror*, as this Gentleman calls it, that I might discover the *Mistakes* of the *Common Interpreters* about the meaning of it.

I confess this discourse doth not directly reach the Controversie between us, but I follow our Author, as I promised in the entrance upon it, and he hath led me to it, by insisting much upon the ordinary, common, and mistaken *Notions* of the *Conquerors Title, Laws and Government*, devised on purpose to decry, baffle, and conceal the nature, and use of the Feudal Law here, and encourage the People to tumult against it, by the Monks and Clergy-men-Lawyers, who wrote a Century two or three after the Conquest, that they might the more easily introduce instead of, or mix with it, the *Canon Law*; yet most what the *Clergy* and *Laity* then desired, or had granted them, was only the relaxation of the rigid Feudal Tenures, as is evident by the *Charters* of *Henry I.* and *King John*, both in *Mat. Paris*, which contain little else.

All our Author collects from this discourse upon the *Conqueror*, is, that there were *Common Councils* in his time, whereby it appears that the *Free-men* or *Commons* of *England* were there, and had a share in making *Laws*; For what (says he) could the promised restitution of the *Laws* of *Edward the Confessor* signifie, if their *Witena-Gemote* and *Parliaments* were destroyed and broken? This needs no other Answer, than that it doth not appear by the *Confessors* *Laws*, (if we know what they were) that the *Commons* were part of the *Saxons Witena-Gemote*, but on the contrary it hath been here proved, and will further appear, that as the *Saxon Great Men*, were only present, in their great Councils, so the *Norman Barons*, and their great Men, were only present in those of the *Conqueror*.

There

A	There were several great Councils in <i>William</i> the I. his Reign, but who, and of what Persons they consisted, is not so clear, they were chiefly about Ecclesiastick matters, and in most of them we have many <i>Bishops</i> names, and no others, not so much as the <i>Principes</i>, <i>Primates</i>, or <i>Magnates</i> in general, unless in that Council, <i>An. Dom. 1071.</i> mentioned in <i>Radulph de Diceto</i>, wherein 'tis said the plaint of <i>Wulstan</i>, Bishop of <i>Worcester</i> was ended, in <i>Concilio celebrato in loco qui vocatur Pedreda, coram Rege & Dorobernia Archiepiscopo, & Primatibus totius Regni.</i> The great confluence of People at his Coronation, is to be looked upon rather as a <i>confused congress</i>, than a <i>regular great Council</i>; and what was done there by the <i>English</i>, cannot truly be said to be their act (many of the Bishops excepted) who dare do no otherwise, being over-aw'd by his whole Army there present, and must in all things submit to his pleasure; for when <i>London</i>, and the Countries about it, had submitted, given	Col. 483. n. 30. P. 29, 30, &c.
B	<i>Hostages</i>, and sworn Fealty to him, he nevertheless permitted his Army to burn Towns, and commit Rapine. The Meeting at <i>Pinenden-Heath</i> in <i>Kent</i> was a <i>Shire-mote</i> or <i>County Court</i> rather than great Council, appointed by Special Commission, for the determining the Controversie between <i>Arch-Bishop Lanfranc</i>, and <i>Odo Earl of Kent</i>, concerning <i>Lands</i> and <i>Customs</i> he with-held from the Church of <i>Canterbury</i>, where the King by Writ convened the Chief and Legal Men, not only out of <i>Kent</i>, but out of other Counties of <i>England</i>,	Hoved. f. 258. a. 1. 9. Ibid. l. 7. The meeting at <i>Pinenden-Heath</i> no great Council. P. 45.
C	as <i>Arbiters</i> and <i>Judges</i>. And good reason, seeing the <i>Kentish</i> Men were like to be too much biased on one side or other, in respect of the Dependency on, or relation to one of them; and here the Judgment was for <i>Lanfranc</i>, having so great reason on his side, that <i>ex communi omnium astipulatione, & judicio ibi cuncta recuperavit</i>, by the common astipulation and Judgment of all the Judges or Jurors, or of all present. Not astipulatione totius regni (as our Author cites <i>Eadmer</i>) he there recovered all things.	The Case between <i>Arch-bishop Lanfranc</i>, and <i>Odo Earl of Kent.</i> <i>Eadem Hist.</i> nov. fol. 9. n. 40. How judged P. 46.
D	The last Authority he brings in this Kings Reign is from the Year-Books, where in a Case concerning the exemption of the <i>Abby</i> of <i>Bury</i> from the Visitation of the Bishop of <i>Normich</i> it is said, <i>In tempus W. Conqueror a son Parliament</i>; here because the word <i>Parliament</i> is mentioned, which came not into use instead of <i>Colloquium magnum</i>, or <i>Commune Concilium</i>, &c. until about the middle of the Reign of <i>Henry III.</i> and became of more frequent use after the 49th of <i>Henry III.</i> when the other words were very little, or not at all used. He would have the Commons to be a part of that great Council, as they were of the <i>Parliaments</i> in the time of <i>Edward III.</i> and conceals what follows; that what was ordained in that <i>Parliament</i> (as they then called a <i>great Council</i>) was <i>per le Roy & per le Archevesq; de Canterbury & per tous les autres Evesques de la terre Countes & Barons</i>, By the King, the Archbishop of <i>Canterbury</i>, and all the other Bishops of the Land, Earls and Barons. From this passage we may observe that <i>William</i> the First was then reputed a Conqueror of this Nation, and that the Judges of that time thought him so, and that the Members of that Parliament (if he will have it so) were the King, Archbishop, Bishops, Earls, and Barons only, the Commons being not mentioned.	21 Ed. 3. fol. 60. P. 48.
E		
F		Ib. 21 E. 3. f. 60.
		Great Councils in the Conquerors time consisted of the King, Bishops, Earls, and Barons.

William the Second.

BUt to proceed, the *Constituent parts* of the great Councils in the *Conquerors* time will better be known by what they were in the Reigns of the next succeeding Kings, for they were certainly the same: yet before we come at them, we must step out of the way if we will closely follow this Gentleman. He tells a piece of a Story how *William Rufus* came to be King, and at last concludes that he was elected, and here and there tells us that many of our Kings (such only as were manifest Usurpers) since the *Conquest* were Elected. But he may as well say *Oliber Cromwell* was elected *Protector*, or any other *Traitor* or *Usurper*. *Rufus* his Pretence to the Crown, was his Fathers Will, by which he gave *Normandy* to his eldest Son *Robert*, *England* to his second Son *William Rufus*, or a Sum of Money, or his Mothers Possessions in *England* to his Third and youngest Son *Henry*.

William Rufus was not Elected.

Florent. Wigorn. fol. 642 who was at this time a Monk in *Worcester* and *Malmesb. fol. 63. b. l. 6.*

Order Vital. fol. 763. D. An Englishman and a Monk at this time in *Uticum* in *Normandy*. * *Godw. de præful. Angl.* How *Rufus* came to be King.

Orderic. Vital. fol. 663. C. *Florent. Wigorn. ut supra.* *Florent. Wig. ibid. An. Dom. 1088.*

Fol. 665.

Ibid. f. 666. A.

No sooner was the *Conqueror* dead, but his Son *William* (not staying to pay the last dues to his deceased Father) hastened into *England* with *Robert Bloet* one of his Fathers Chaplains (afterwards *Rufus's* Chancellor, and * *Bishop* of *Lincolne*) who brought to *Lanfranc, Archbishop* of *Canterbury*, the Donation of his Father, which he having read, and taking from him all imaginable security by Promises and Oath that he would be very kind to the Clergy, made haste with him to *London*, and by his Interest in them (who then imagined the Affairs of the Nation) and such other Great Men as he could influence, on *Michaelmas* day (the *Conqueror* dying *September 9.*) with their consent Anointed him King in the old Church of *St. Peter* in *Westminster*, and returning to *Winchester* (where was then the Treasury in the Castle there) he distributed his Fathers Treasure as he had commanded him, and sent it to the Churches and Monasteries through *England*.

Florence a Monk of *Worcester* at that time, who died *An. Dom. 1119.* and was no friend to *Rufus*, tells us, that not long after his Coronation there arose great discord and contention between the chief Men of *England*; for part of the Great, and Noble Normans favour'd King *William*, but it was the least; and the other part of them favour'd *Robert Duke* of *Normandy*, which was the greatest.

Ordericus Vitalis at this time a Monk in the Monastery of *Uticum* in *Normandy*, gives a more full account of the Transactions concerning this matter, to wit, that the chief Men that had and were like to have great Estates both in *England* and *Normandy*, met to treat about the conveniencies or inconveniencies of the separation of them one from the other, by the Rule and Dominion of two distant Princes, having both been under the Power, and Government of their defunct Lord, who by their assistance had Conquered *England*. They were in a great streight what to do, they could not serve two Lords so remote from one another: If they faithfully served the Duke of *Normandy*, they should offend his Brother *William*, and lose their Lands and Honours in *England*; and if they proved obedient to him, *Robert* would deprive them of their Paternal Inheritance

A tance in <i>Normandy</i>; At last they resolved, seeing <i>Robert</i> was the eldest, and that they had <i>sworn Fealty</i> to him in his Fathers life time, to set him up and make him King of <i>England</i>, for the preservation of the Unity of both Nations. <i>Odo Bishop of Bajeux, Eustachius Earl of Bolloin, Robert de Belesme</i>, and many others acquainted <i>Robert</i> with their intention; to whom, if they would begin, he promised sufficient assistance for the effecting their Design. Therefore after <i>Christmas</i> they passed into <i>England</i>, fortified their Castles, and in a short time stirred up a great part of the Country against the King, with these joined <i>Roger Earl of Arundel, and Shrewsbury, Hugh Grentmesnil, Vicount of Leicester</i>, and many more very great men in <i>England</i>, or at least seemingly continued with <i>William</i>, and favoured the Design of <i>Robert</i>.	Ibid. C. The great Normans would have set up <i>Robert Duke of Normandy</i>.
B King <i>William</i> observing the posture of his affairs, resolved to suppress these Insurrections, and to that purpose Convened <i>Lanfranc the Archbishop, Bishops, Earls, and Natural English</i>, and shewed them his intention, who exhorted him to proceed against the Perturbers of the Peace, and promised their ready assistance. And then, as the Monk of <i>Worcester</i> again informs us, <i>Congregato quantum ad presens poterat Romanorum, sed tamen maxime Anglorum Equestri & pedestri (licet mediocri) exercitu, &c.</i> having raised such an Army as he could of Horse and Foot of <i>Normans</i>, but the greatest part <i>English</i> (though but a mean one) and by using the Common bayte of <i>Liberty, declaring he would alleviate the rigid Laws, give free leave of Hunting, &c.</i> he so encouraged his Men, that he took in <i>Rocheſter</i>, and some other Castles, and brake the force of his Enemies.	Ibid. D. These <i>English</i> were Stipendiaries, <i>Mat. Par. fol. 15. n. 20.</i> By what means <i>Will. Rufus</i> brake the Force of his Enemies.
D But he overcame his Enemies not so much by force, as by insinuating himself into <i>Roger Earl of Arundel and Shrewsbury</i>, the chief person next <i>Odo</i>, in this Insurrection; to whom he pretended, he would most willingly quit the Government, if he, and those his Father had assigned his Curators, should think fit. Yet adding, that he understood not why they were so outrageous against him. If they would have Money, or Augmentation of their Estates, they might have what they would, upon condition they endangered not his Fathers Will and Judgment, which if they despised, they might hazard their own safety; for the same man that made him a King, made them Earls and Great Men, and he ruled by his Army ever after.	<i>Malmesb. de Gest. Reg. fol. 68. a. n. 10. 20.</i> <i>Roger Earl of Arundel and Shrewsbury comes off to William Rufus.</i>
E Here we see <i>William Rufus's</i> Title to the Crown, from his Fathers Will, and his own Sword, the greatest part of the <i>Norman Nobility</i> (which were then the only Nobility in <i>England</i>) were his Enemies, the <i>Bishops, Hugh Earl of Chester, and Robert de Roelent</i>, who was his General, <i>William de Warrenna</i>, and some few others his Friends. Let our Author consider this, and tell me whether <i>William the II. was Elected, or not</i>: Or let him consider, that an Election is, or ought to be, a Free, Solemn, Deliberate, Sober, Sedate Act, of the whole People (where they have that Right) whereby the major part of them do chose this or that Person, or thing, for such or such Ends and Purposes. And not an Undermining, Crafty, Cheating, or a Tumultuous and	<i>William Rufus Ruled by his Army.</i> His Title. The Great Men that sided with him. What an Election is.

Forceful Act of a Party, or Faction, for the setting up this or that Person, or using this or that Means for the obtaining their own Designs and Purposes. Let him, I say, consider and make a difference between these two Acts of the whole People, and a Faction, and he may easily make a true Judgment of all the pretended Elections of our *English Usurpers*, and all other *Traitors* whatever.

This is all worth notice that he says of this Kings Reign ; but what is this to the great Councils or Parliaments ; or how doth it prove that the Commons were an Essential part of them in this Kings Reign ? Truly I cannot tell, nor I think any other Man, unless he will have it to be so, because some of the *English* by the instigation of the Bishops, and out of hatred to the *Normans*, took Arms for him, and helped him to overcome his Enemies. There were not, I suppose, many great Councils in *Rufus's* his time ; and in those we find mentioned, there is not the least probability, that the Commons, as now called and distinguished from the great Lords, had any place in them.

Eadmer fol.
20. n. 30.
A. Dom. 1093.
The great
Councils in
Rufus's time.

At Winchester.

I shall cite three or four, which I find clearly expressed. In the sixth year of this King there was a great Council at Winchester, wherein the King declared *Anselm Arch-Bishop* of Canterbury, and he did *harm* to him. This Council is only thus expressed, *Rex adunato Antonie conventu Nobilium*, without specifying either Ecclesiasticks or Laicks. The King having Convened the Nobility at Winchester, without doubt both Orders of the Nobility were there, both the Lords *Spiritual* and *Temporal*, but not the Commons.

Eadmer fol.
26. n. 10.
At Rockingham.

An. Dom.
1094.

The Bishops,
Abbats, and
great Men only
in this
Council.

In the seventh of this King there was a great Council held in the Church in *Rockingham-Castle*, where the Question concerning the Kings Supremacy was discussed, *Ex Regia Sanctione ferme totius regni Nobilitas quinto Idus Martii in unum apud Rockingham coit.* That is, almost all the Nobility of the whole Kingdom, by the Kings Edict met at *Rockingham* on the eleventh of *March* ; and five or six Lines before this, in the same Leaf, we are told what the Nobility were, and what the cause of their meeting. *Anselmus igitur Salvâ ratione suâ, quam de subjectione & obedientiâ Romanæ Ecclesiæ in medium tulerat, petivit Inducias ad istius rei examinationem, quatenus Episcopis Abbatibus cunctisque Regni principibus, una coeuntibus communi assensu defineretur, utrum Salva reberentia & obedientia sedis Apostolicæ posset fidem Terreno Regi Servare an non.* That is, *Anselm* saving his reason he had produced concerning subjection, and obedience to the *Roman* Church, desired Respite for the examination of the matter, that it might be defined in a Convention of the Bishops, Abbats, and all the great Men of the Kingdom, by common Assent, whether or no saving his obedience, and reverence to the Apostolick See, he might keep his Faith to a Terrene King.

Ib. f. 38. l. 6.
A. D. 1095, or
1097.

In the ninth or tenth year of this King, I find in the same Author there was another great Council, in sequenti Mense Augusto cum de statu Regni adurus Rex Episcopos, Abbates, & quosque Regni

Regni Proceres in unum precepti sui sanctione egisset. The King intending to act something concerning the state and affairs of the Kingdom, by his Edict convoked the *Bishops, Abbats, and all the Noblemen* of the Kingdom. Can any man but our Author think the Commons were any way represented in any of these great Councils, and in those times there were no other?

A great Council in the 10th of *Rufus*, of the Bishops, Abbats and Noblemen only.

Henry the First.

P. 67.

Fol. 88. a. n. 20, 40.

Henry I. set up by a Faction.

* *Eadmer* fol. 49. n. 10, 20, 30. Arch-Bishop *Anselm* dissuades the great men from setting up *Robert D.* of *Normandy*.

Fol. 650.

His Amendments and Additions were chiefly the two Feudal Laws here before explained. Which made them Laws be desired by the *Normans*. A Peace made between *Robert Duke of Normandy*, and King *Henry*.

Fol. 55. n. 20, 30.

From *Rufus* he passes to *Henry I.* who, according to his understanding of Elections, was an Elected King, though set up by a Faction; for *Malmesbury* says, there were only five great Men, *Robert Fitz Haymon, Richard de Redbers, Roger Bigot, Henry Earl of Warwick, and Robert Earl of Mellent* his Brother, all *Normans*, that favoured him, and by the contrivance, chiefly of *Henry Earl of Warwick*, he was made King, all others sent privately to *Robert Duke of Normandy*, that he would come and be their King, or at least reproach *Henry* *. But when he came over, and most of the great Men either did or were about to revolt from King *Henry*, *Anselm Archbish* of *Canterbury*, who had given him great assistance in raising of an Army, after he had received from him great Promises, that all Church Affairs should be left to his direction, and disposing; and that he would for ever after obey the Decrees and Commands of the Pope, assembled the great Men, and so cajoled them and the Army, that he altered their Intentions; and it was from his Fidelity, and Industry that *Henry* lost not the Kingdom.

Robert being thus disappointed, and fearing lest *Anselm* should Excommunicate him, consented to a Peace, and the two Brothers were reconciled.

Florence of Worcester says, that the day he was Crowned by *Maurice Bishop* of *Lincoln*, he gave great Liberties to the Church and Kingdom, and commanded that *King Edwards Laws* should be observed, with such Amendments as his Father had amended them; and adds, that very many of the great Men sent for him over, and promised him the Crown and Kingdom, and coming, they did some of them adhere to him. But the *Bishops, Common Soldiers, and English*, stuck close to King *Henry*, by whose means he raised a very great Army; but the Wisest Men on both sides consulted together, and by their Mediation, made Peace between the Brothers, on these Conditions, That *Robert* should yearly receive 3000 Marks, and that all such as had their *Earldoms and Baronies* taken from them in *England*, for their Fidelity to the Duke, and all those that had the like Estates taken from them in *Normandy* for their Fidelity to the King, should have them again freely, and without composition.

Indeed *Mat. Paris* says the great Men of *England* (which were *Normans*) not knowing what was become of *Robert*, being gone five

Henry made
great Promi-
ses to obtain
the Crown.

five years in an Expedition to the *Holy Land*, and fearing to be long without Government, Henry promising Amendment of their Laws, to restore their old Liberties and Customs, and the Laws of King Edward, and to confirm them; then he was Consecrated and Crowned King by Maurice Bishop of London. And Thomas Archbishop of York, *fabente populo & Clero*; which brings me to the consideration of those two words from which our Author thinks he hath so much advantage, and in clearing the sense of the word *populus*, shall answer most what remains in his Preface.

Lexic. Jurid.
in verbo.

The meaning
of the word
Populus.

Concerning the word *Clerus*, or what is meant by that, there is no controverſie between us; and though perhaps we much differ about the sense of it, yet I pass it by, and come to the word *Populus*, which Calvin says amongst the Romans did equally signify the *Patricii & Senatores* (which were there *Magnates*, or *Noblemen*) as *Plebs & Vulgus*, the inferior sort of People. But I shall not spend time about the foreign Notation of the word, and will therefore see whether it hath any other sense or meaning, in our Laws and Historians, than that our Author puts upon it; He always takes the meaning of this word as contradicting to *Magnates*, *Nobiles*, &c. and understands it of the inferior sort of People, or at least of those, and such as were inferior to *Barons*, *Tenents in Capite*, and *Noblemen*. But he ought to take the meaning of *Populus*, as it is contra-distinct, to the word with which it is used, and to which it is opposed, that is *Clerus*, and then it signifies no more than *Laity*, and they both together do import *Clergy*, and *Laity*, or *Ecclesiasticks* and *Seculars*: So that the word *Populus*, here doth not denote a distinct State, or Order amongst Secular men or Laicks, but an Order and State of Men distinct from the *Ecclesiasticks*, or the *Clergy*.

In the Preface
to King Ed-
ward's Laws,
the Laicks in
this great
Council were
the great
Saxons, as is
clear by what
is said before
of their great
Councils.
Col. 358. n.
40.

In this sense 'tis used in King Ina's Laws *Erest we Sebedeth that Godes Theowas bioza ryht Regole gyman and on ryht bealdon Ester tham we beodeth that calles Folces. æ. and Domas thus synd gebealdene*. That is, First we command that Gods Servants or Ministers do observe their right Rule; and hold them to Justice; after them we command that all the People, do thus, or according to this Tenor hold the Laws and Judgments. King Edmund held a great Council at Easter, in London, *Egiber Ge Godcundza hada, Ge Wozuldcundza, &c.* Lambert thus translates these words, *Tam Ecclesiasticorum quam Laicorum*, as well of Ecclesiasticks as Laicks. Brompton translates the whole Preface more according to the true literal meaning of the words in this manner. *Edmundus Rex congregavit magnam Synodum Dei Ordinis & Saculi apud Lundoniam civitatem in Sancto Pascha Solenni, cui interfuerunt Odo, & Wulstanus Archiepiscopi, & alii plures Episcopi, &c.* In English thus, King Edmund summoned a great Synod at London, of Gods Order and the Secular Order in the Holy Solemnity of Easter, where were present Odo and Wulstan, Arch-Bishops, and many other Bishops, &c.

Lamb. fol. 58,
&c.

In the second part of *Edmunds* Laws, are almost the same Saxon words, denoting the Members of a great Council, and the same way turned, except that for *Saculi Ordine*, the worldly Order or State,
Brompton

Brompton hath *Laicis* Laymen. Here we see the *Saxon* words; which exprefs **Clerus** and **Populus**, as they are used in opposition one to another, do signifie the *Clergy* and *Laity*, the two **General States**, and **Orders**, into which all Mankind is divided.

Brompt. f. 860. n. 50.

A But to come nearer to our purpose, *King Egbert*, having Conquered the greatest part of *England*, returning to *Winchester*, **D**abit omnibus **Majozibus** Regnozum, que conquestierat ut conbenirent ad illum die certo *Wintoniam*: veniunt *Wintoniam* **Clerus & Populus**, & assensu omnium partium coronatus est. *Egbertus in Regem totius Britannia.* Commanded all the great Men of the Kingdoms he had Conquered, that they should meet him at *Winchester* on a certain day: **The Clergy and People** came to *Winchester*, and by the assent of all Parties (that is, the great Men of every Kingdom) he was *Crowned King of Britain*: Who were here, the **Clerus & Populus**, the **Clergy and People**, but the **Majozes Regnozum**, the great **Ecclesiasticks**, and **Laics** or **Laymen** of the several Kingdoms of *England* at that time? Having cleared the Notion of the word **Populus**, as it is used and joined with **Clerus** by way of *Antithesis*, or contra-opposition, I come to his own Instances in his own Authors, and begin as he doth, first with *Mat. Paris*: The whole Relation runs thus:

Dugd. Monast. vol. fol. 32. n. 60, &c.

P. 56. Fol. 55. n. 20. 30.

C Defuncto itaque Rege *Willielmo* cum **Magnates Anglia** ignorarent quod actum esset de *Roberto D. Normannorum Regis defuncti fratre primogenito*, qui jam per quinquennium in expeditione *Hyerosolymitana* moram pertraxerat, timuerunt *Domini* sine regimine vacillare. Quod *Henricus fratrum ultimus*, & *Juvenis Sapientissimus*, cum calidè cognovisset, congregato *Lundoniis Clero Anglia*, & **Populo** universo, promisit emendationem *Legum*, quibus oppressa fuerit *Anglia*, tempore *Patris sui*, & *Fratris nuper defuncti*, ut animos omnium in sui promotionem accenderet & amorem; & ut illum in Regem susciperent & patronum; ad hac **Clero Respondente**, & **Magnatibus** cunctis, quod si animo volente ipsi vellet concedere, & *Charta* sua communire illas libertates & consuetudines antiquas quæ floruerunt in Regno tempore sancti Regis *Edwardi* in ipsum consentirent, & in Regem Unanimiter consecrarent. *Henrico* autem hoc libenter annuente, & se id facturum cum *Juramento* affirmante consecratus est in Regem apud *Westmonasterium* in die *Assumptionis Beatae Mariae*, sabente **Clero**, & **Populo**, cui continuò a *Mauritio Londinensi Episcopo*, & *Thomâ Eboracensi Archiepiscopo* corona capiti imponitur. That is, After the death of *King William*, the great Men of *England*, not knowing what was become of *Robert Duke of Normandy*, eldest Brother of the deceased King; who now had been absent five years in an Expedition to the *Holy Land*, were afraid to be long loose without Government: Which *Henry* the youngest Brother, and a Wise young Man craftily observing, having Convened the Clergy of *England*, and all the People, he promised Amendment of the Laws with which *England* was oppressed, in the time of his Father and Brother, lately deceased, that he might inflame the minds of all Men to love and promote him, and receive him as their King and Patron, to which the Clergy and all the great Men answered, That if he with a willing mind would grant to them the Laws which flourished in the Kingdom, in the time of *Holy King Edward*, they would unan-

The Relation of *Mat. Paris* how *Henry I.* was made King.

August 15.

animously

nimously agree in him, and consecrate him King. *Henry* willingly granted this, and taking an Oath that he would perform it, was consecrated King at *Westminster*, upon the day of the Assumption of the Blessed *Mary*. **The Clergy and People** favouring him, upon whose Head the Crown was placed forthwith by *Maurice Bishop* of *London*, and *Thomas Archbishop* of *York*. Upon this Relation I shall make several Remarks :

First, That it was not possible for the *Clergy*, or all the People of *England*, or any that represented the People of *England*, to be at this **Consecration and Coronation** of *Henry*. For *Rufus* was slain in *New-Forest*, on the fourth of the *Nones*, or second of *August*, being Thursday, and *Henry* was Crowned upon the *Nones*, or fifth of the same Month, being Sunday. So that it was impossible for the People in two days time, at any considerable distance from *London*, to have notice of *Rufus's* death, or to meet, choose, and send their Representatives to *London*, or indeed for the **Bishops, and Clergy** to come from the far parts of *England* in that time ; and therefore it was only *Henry's Party*, and **Faction**, in, and about *London*, that he partially calls the **Clergy**, and all the **People** of *England*.

Secondly, I note, That it was **Clerus & Magnates cuncti** ; the **Clergy** - and all the Noblemen, which answered him (making his great Promises) that if he would with a willing mind grant and confirm by **Charter**, their **Liberties**, &c. then they would consent, and unanimously consecrate and make him King, not one word in this place of any **Populus**, but the **Great** or **Noblemen**, and therefore they must be the **People**, or **Lay-men** here meant. But our Author very *unfairly* translates these words. **Ad hoc Respondente Clero & Magnatibus cunctis**, only by these words, **To which it was generally answered** ; hereby imposing upon and cheating his Readers into an opinion that it was the **Populus Univerfus**, thereby meaning the **Plebs** and **Vulgar** that made this Answer, and consented to *Consecrate Henry King*.

But further, to make good what I now say, let us see who were the *Constituent parts* of the *great Council* held at *Westminster* on *Michaelmas-day*, 1102. in the second year of this King ; they were **omnes principes regni sui Ecclesiastici, & Secularis ordinis** ; All the chief Men of his Kingdom, of the *Ecclesiastick* and *Secular*, or *Lay-Order* ; or the **Clerus** and **Populus**. Or as *Eadmer*, who was then at this Council with *Arch-Bishop Anselm*, calls the Members of this very great Council, **Primates Regni utriusque Ordinis**, the prime or greatest men of both Orders, that is, the **Clerus & Populus**, or *Ecclesiasticks* and *Laics* ; and three or four lines before he tells us, what the *Primates* of both Orders were, to wit, **Bishops, Abbats**, and the **Principes totius regni**, the *Princes*, or *chief Men* of the whole Kingdom, and therefore, **favente clero & populo** must refer to the same persons expressed before in these words, **Respondente Clero, & Magnatibus cunctis**, who only consented and unanimously made him King.

Thirdly,

Florent. Wigorn. who died the 19th of *Henry I.* Fol. 649. lin. 27. & fol. 665. lin.

The Clergy and great Men set up *Henry I.* not the People.

P. 6. The unhand-some Translation of the Author.

Florent. Wigorn. f. 651. lin. 21.

Fol. 67. n. 20.

Clerus & Populus, Ecclesiasticks and Laics.

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A Thirdly, That *Edward the Confessor's Laws* here desired, were those **Laws which William the Conqueror** had amended; they being very pleasing and acceptable to the *Normans* (who set up *Henry*) havingt hereby their **Reliefs made certain, their Military Fees Hereditary,** and freed from all extraordinary **Taxes, &c.** as hath been shewed in the Exposition of the fifty five and fifty eight Laws beforementioned, but for all his fair Promises concerning these Laws and Liberties of the People, and his Flattering, Wheedling Speech, this Gentleman is so much taken with; his own Author tells us, that afterwards when with a *fear'd and canterized Conscience* he had obtained the Kingdom, and *usurped upon his Brother Robert, who had manifest Right,* he impudently violated the Laws and Promises, by which he had drawn in all men to serve him.

Flor. Wigorn. fol. 650. l. 14.

Edward the Confessor's Laws, why pleasing to the Normans.

These amendments were Additions, not Corrections.

P. 69.

Mat Paris fol. 61. n. 50. fol. 62. n. 10, 20 30.

Henry I. violates his Promise.

B Before we pass from King *Henry*, let us observe how *Eadmer*, that was constantly in the Family and company of Archbishop *Anselm*, and present at most of them, stileth the **Great Councils** in his Reign. He expresseth the *Great Council* at *Winchester* by these words. **Episcopis Terreque Principibus sub uno coatis.** A great Council at *London*, **Rex adunatus Lundonie Principibus Regni.** A Council at *Westminster* thus, **Concilium Episcoporum Abbatum & Principum totius Regni, & Primates Regni utriusque ordinis.** Another Council by regni **Ingenuitas.** Which two Lines before he calls **Episcoporum Regnique Primatum Concilium.** A second great Council at *London* he phraseth **Conventus Episcoporum Abbatum & Procerum Regni.** A third great Council at *London*, he reckons up the Members thus, **Archiepiscopi, Episcopi, & cuncti Majores Regni.** A fourth there, **Episcopi & Principes Regni.** A fifth great Council at *London* he calls **Regnum Anglie.** A great Council at *Windsor* thus, **Episcopos & Principes Anglie in unum apud Windleshoram fecit venire.** Again, **Rex iussit omnes Episcopos & Principes totius Regni ad Curiam suam sub uno venire.** At *Salisbury* **Factus est Conventus Episcoporum Abbatum & Principum totius Regni.** A sixth great Council at *London*, **Episcopi Abbates & Nobiles quique Lundonie adunati sunt.** After this manner *Florence of Worcester* expresseth the Great Councils in this King's Reign, though he mentioneth not a fourth part of them. In all these not the least word of the **Commons**, much less of their being an **Essential part** of the great **Councils** or **Parliaments** of those times.

Fol. 62. n. 10.

Fol. 65. lin. 8.

Fol. 67. n. 10.

Ibid. n. 20.

Fol. 70. n. 20.

Fol. 91. n. 20.

Fol. 94. n. 50.

Fol. 102. n. 50.

Fol. 105. l. 3.

Fol. 109. m. 30.

Fol. 114. n. 30.

Fol. 117. n. 30.

Fol. 118. n. 20.

F His next Instance is of King *Stephen*, that he was *assensu cleri & populi in Regem electus, & per Dominum Papam confirmatus*, That he was chosen King by the assent of the People, and confirmed by the Pope. 'Tis well this Gentleman brings in the Pope to help out his Title, for he mended all crackt Titles of **Usurpers**, and was most commonly the *Author* or *Abettor* of our ancient *Rebellions* in England. The words are taken out of the beginning of King *Stephen's Charter* of **Liberties** transcribed by *Malmesbury*. **Ego Stephanus Dei gratia assensu Cleri & Populi in Regem Anglie electus, & a Domino Willielmo Archiepiscopo Cantuarie, & Sancte Ecclesie Romana Legato consecratus, & ab Innocentio Sancte sedis Romano Pontifice postmodum confirmatus. Respectu & amore Dei Sanctam Ecclesiam liberam esse concedo, & debitam reverentiam illis Confirmo, &c.**

P. 64.

Hist. Novel. fol. 101. b. n. 20 Notwithstanding what he says of himself in his Charter, King *Stephen* was not elected.

Ibid. fol. 100.
b. n. 30.

Ibid. fol. 100.
b. n. 30.

Henry Bishop
of Winchester
the great In-
strument in
setting up King
Stephen.

Ibid. a. n. 40. &
fol. 101. a. l. 5.

Ibid. n. 10. &
n. 10. now at
least 500000 l.

Ibid. n. 40, 50.
& b. lin. 5.

Stephen set up
by a Faction.

Fol. 47. n. 20,
30, 40, &c.
Fol. 121. b.
throughout.
The Relation
how Henry I.
was made
King, out of
Paris and
Huntingdon.

Col. 505. n. 40,
50.

The Archbi-
shop of Can-
terbury abused
by a Story
from Roger
Bigod.
He was Earl
Belogne and
Mortagne.
The Noble-
men, the Peo-
ple or Laity.

And indeed most of the Liberties granted in this Charter, are to the Church; for by the contrivance of two or three great Churchmen, he was advanced to the Throne, though King *Henry* upon his Death-bed, being interrogated about a Successor, gave all his Estate here, and beyond Sea, to his Daughter *Matilda* the *Empress*, and notwithstanding all the Nobility, and amongst them King *Stephen* himself, had sworn Fealty to her; yet by the interest of his Brother *Henry* Bishop of *Winchester*, (without which his Attempt had been frustrated) he was made King. He brought off *Roger* Bishop of *Salisbury*, a great and powerful Prelate, with *William de Pont-Arche*, Keeper of King *Henry's* Treasure, which was 100000 l. in Money, beside Gold and Silver Vessels, of great weight, and inestimable Price.

Malmesbury that flourished and wrote at this time, says, that by his own Dexterity, and the Artifice of his Brother, and *Roger* Bishop of *Salisbury*, and the advantage of this Money, he inclined the Minds of the Noblemen much towards him, and raised an Army chiefly of *Flemmings* and *Britains*; but speaks not of any great Council called, either to elect him King, or for the Solemnity of his Coronation; at which there were present only three Bishops, the Archbishop of *Canterbury*, and the Bishops of *Winchester* and *Salisbury*, no Abbats, and but a few of the great Noblemen; which was performed *December 22*. King *Henry* dying the first of that Month, there being but two and twenty days time, a short space for the People all over *England*, to have notice, meet, choose, and send their Representatives, if any such had been at that time: but it is clear from the Story, he was Set up and Crowned by a Faction, though he himself says in this Charter, he was elected by the Clergy and Laity, which must be the Nobility; for here is not the least mention of the *Milites* or *liberi homines*, the Knights or Free-men, having any thing to do as Actors in this Affair, in the whole Relation.

Mat. Paris in his Narrative of this Transaction, in many things follows *Henry*, at this time Archdeacon of *Huntingdon*, who ends his History with the death of this King (save that *Paris* mentions a Convention of the *Magnates*, or Great Men at *London*, and that *Stephen* promised the Melioration of the Laws, according to their Will and Pleasure, which *Huntingdon* does not) who tells us that all the Bishops, Earls, and Barons that had sworn Fealty, and done Homage to the Daughter of *Henry* and her Heirs, consented that *Stephen* should be King; who tempting God, had invaded the Crown.

Radulphus de Diceto Dean of *St. Pauls London*, who lived in the Reign of King *John*, about the year 1210. adds, That *Hugh Bigot*, being Steward of the King's Household (he dying in *Normandy*) hasted into *England*, and made Oath before the Archbishop of *Canterbury*, That King *Henry* on his Death-bed, upon some differences which had happened between him, and his Daughter the *Empress*, did Disinherit her, and made *Stephen* Earl of *Boloin* his Heir. Whereupon *William Archbishop* of *Canterbury*, giving too much credit to the words of the Steward, Consecrated *Stephen* Earl of *Mortaigne*, King at *Westminster*: Here the Noblemen, or Temporal Barons, must be the People, that is, the Laity that assented to *Stephen's* being King; for there

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there are no other but the Bishops and these, said to have done any thing in this Matter ; and it will be made appear upon examination of our Authors Records, that the People were not represented as at this day, in great Councils or Parliaments, before the 49th of Henry III. after the Conquest, and therefore no other Men can be understood by *Populus* the People or Laity than the Nobility. Nor can any discerning Person that duly considers these Relations of Stephen's advancement to the Crown, ever believe he was duly chosen or elected, but on the contrary, must confess, that he usurped it by the assistance of a Faction.

And whether he payed not the same Pranks Usurpers use to do for their own security and gratifying their friends, any man that will may be satisfied by the Historians of those times. Fel. 282. b. n. 10
Hoveden was a Priest and a Lawyer, and a Domestick in the Family of Henry II.

Another Instance he brings out of Roger de Hoveden, *congregato Clero & Populo apud Clarendon*. These words he only cites, and says the Learned Selden calls this a full Parliament ; 'tis granted to be a full great Council, as Fitz-Stephens calls it, or a Parliament of those times ; *Convocatur generale Concilium apud Clarendonnam, Rex proponit & Scribit Dignitates quas avitas & in Regno Angliæ Esse debere Dixit, Fitz-Steph. p. 20.* but yet for all these two words, he so much insists upon (though he never understood the meaning of them in this place) the Commons as at this day were not an Essential part of this Parliament : Nor are meant by, nor included in the word *Populus*. To clear the point we must make a large rehearsal of somewhat agitated in this general or great Council, and the occasion of calling it. Becket Arch-Bishop of Canterbury had promised King Henry II. at Woodstock, that he would really and without fraud observe his Laws. *Et paulo post congregato Clero, & Populo, apud Clarendon, pœnituit Archiepiscopum quod ipse concessionem illam fecerat Regi. Et volens resilire a pacto, dixit se in illâ concessione graviter peccasse, & quod in hoc amplius non peccaret. Unde Rex plurimum in irâ adversus eum commotus, minatus est ei & suis exilium, & mortem. Venerunt ergo ad Archiepiscopum, Salisburienfis & Norwicensis Episcopi, & Robertus Leycestriæ, & Reginaldus Cornubiæ Comites, & duo Templarii scilicet Richardus de Hastings, & Tostes de sancto Homero, & lacrymantes provoluti ad pedes Archiepiscopi, petebant, ut saltem propter honorem Regis, veniret ad eum, & coram populo diceret, se leges suas recepisse. Precibus igitur tantorum virorum Archiepiscopus victus venit ad Regem, & coram clero & populo dixit, se leges illas, quas Rex avitas vocabat, suscepisse. Et concessit ut Episcopi leges illas susciperent, & ut illas custodire promitterent.*

Ibid.
The Story of Tho. Becket Arch Bishop of Canterbury at the Council of Clarendon.

Tunc precepit Rex universis Comitibus & Baronibus Regni, ut irent foras & recordarentur legum Henrici Regis avi sui & eas in scripto redigerent ; quod cum factum fuisset precepit Rex Archiepiscopis, & Episcopis ut Sigilla sua apponerent Scripto illi, & cum cæteri promississent ad id faciendum, Archiepiscopus Cantuariensis juravit quod nunquam, scripto illi apponeret, nec Leges illas confirmaret. That is, and a little after (Becket had granted to observe the Kings Laws) the Clergy and People or Laity, being Convened at Clarendon, the Arch-Bishop repented that he had made such a Concession to the King, and intending to run back from his Bargain, he said he had grievously sinned, in that Concession, and that he would sin no more in the like kind ; whence the King was much moved with Anger against him ; threatening Banishment and Death to him and his : therefore the Bishops of Salisbury and Norwich, the Earls of Leicester, and Cornwall, and two Templars, Richard de Hastings, and

There were only the King, Bishops, Earls, and Barons together.

The Earls and Barons were commanded out to prepare those Laws which the Arch-Bishop had promised before them, the King and Bishops.

Who were the *Clerus* & *Populus* in the great Council of Clarendon

Fol. 100. n. 20.

Mat. Paris enumerates the Constituent parts of the Parliament without any Commons.

Lib. 1. cap. 26.

See *Regnum in Glossar.*

The Parliament at Clarendon, of whom it consisted.

Col. 1385. n. 60. A. D. 1164.

Tit. Hon. f. 585.

Tostes de Sancto Homero, came to the Arch-Bishop, and weeping, cast themselves at his feet, and beseeched, that at least for the Honour of the King, he would come to him, and say before the People, he would receive his Laws. **The Arch-Bishop, overcome by the intreaty of so great Men, came to the King, and before the Clergy, and People, or Laity, said, He would receive those Laws which the King called Ancient;** and he granted that the Bishops should receive those Laws, and Promise to keep them. *Then the King commanded all the Earls and Barons of the Kingdom, that they should go out of the place where they were, and recount, or call to mind the Laws of King Henry his Grandfather, and reduce them into writing, which when they had done, the King commanded the Arch-Bishops and Bishops, that they should put their Seals to that Writing, and when the rest were ready to do it, the Arch-Bishop of Canterbury, swore that he would never set his Seal to that Writing, or confirm those Laws.*

By these passages it is evident that the Arch-Bishop was urged to come to the King and say *coram populo*, before the *People* or *Laity*, that he received the Kings Laws, and he comes to the King and confessed *coram Clero, & Populo*, before the Clergy, and *People* or *Laity*, that he had received them. Then the King commanded all the **Earls, and Barons** of the *Kingdom* (which must be the *Populus*, the *People* or *Laity* here meant, and no other) to go out from the Clergy, where they were all together, and recount the Laws of his Grandfather King Henry, and put them in Writing. And when that was done, commanded the *Clerus*, the *Bishops* only, to Seal them. From whence 'tis most clear, that the Earls and Barons only, in this great Council were expressed and meant by the word *Populus*, *People* or *Laity*.

And agreeable hereunto, *Mat. Paris* says of this very great Council or Parliament, *An. Dom. 1164. 10 Hen. 2. In presentia Regis Henrici apud Clarendon 8 Calend. Febr. presidente Johanne de Oxonia, de mandato ipsius Regis, presentibus etiam Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & Proceribus, Regni, facta est recognitio*, That is, in the year of our Lord 1164. 10 Hen. 2. in the presence of the King at Clarendon, on the 26th of January, John of Oxford presiding, according to the Kings Mandate, and the Arch-Bishops, Bishops, Abbats, Priors, Earls, Barons, and Great Men of the Kingdom present, there was made a *Recognition*, &c.

Quadrilogus thus expresseth this Council, *Rex apud Clarendune Regnum Convocat Universum, Quodcumque presules, & proceres Convenissent, Exegit Rex instantius, ut promissa sibi solverentur*: The King called the whole Kingdom (that is the Nobility which in those days Constituted the Kingdom) to Clarendon, where when the Bishops, and great Men came together, he urgently presseth them, to make good their promise to him. *Gervase of Canterbury* says, *Congregati sunt presules, & proceres Regni Anglicani, apud Clarendoniam in festivitate sancti Hillarii*, the Bishops, and great Men of the Kingdom of England, met together at Clarendon in the Feast of St. Hillary.

What can be more clear by this enumeration of the constituent parts of this full Parliament, (as our Author and Mr. Selden agree it to be) than that the Commons were none of them, and that the *Clerus & Populus* in *Hoveden* were only the Clergy and Lay Nobility.

King

King John.

THe last Instance is of King John, that he was Crowned *mediante tam Cleri quam populi unanimi consensu & favore*. By the unanimous consent of the Clergy, and People or Laity. The same Roger de Hovedon a Lawyer, and Favorite of Henry II. in whose Court he lived until the Kings death, who continued his Annals to the fifth year of King John, in which he died, gives us an account, both how King John obtained the Crown, and also of his Coronation. King John when his Brother Richard died of the Wound he received before Chalutz Castle in Limosin, was in Normandy; from whence he immediately dispatched Hubert Arch-Bishop of Canterbury, William Mareschal Earl of Strigoil, Geofry Fitz-Peter, and other Barons, to keep the Peace of England, who caused Citizens, and Burghers, Earls, Barons, and Free-men, to Swear Fealty, and the Peace to John Duke of Normandy, the Son of King Henry, the Son of Maude the Empress, against all men. And the same three, meeting at Northampton, Convented before them such as they doubted of, namely, David Brother to the King of Scots, Richard Earl of Clare, Ranulfe Earl of Chester, William Earl of Tutesbury, Walran Earl of Warwick, Roger Constable of Chester, William de Mowbray, and many other Earls, and Barons; and assured them that John Duke of Normandy, would do every one of them right, if they would keep Faith and Peace with him. On this condition the said Earls and Barons sware Fealty and faithful Service to John Duke of Normandy, against all Men.

Not long after Duke John came into England, and there met at London, in expectation of him, Hubert Arch-bishop of Canterbury, John Arch-Bishop of Dublin, William Bishop of London, Gilbert Bishop of Rochester, John Bishop of Norwich, Hugh Bishop of Lincolne, Eustachius Bishop of Ely, Godfrey Bishop of Winchester, Henry Bishop of Exceter, Sefrid Bishop of Chichester, Geofry Bishop of Coventry, Savarie Bishop of Bath, Herbert Bishop of Salisbury, Philip Bishop of Duresme, Roger Bishop of St. Andrews in Scotland, and Henry Bishop of Landaff: Robert Earl of Leycester, Richard Earl of Clare, William Earl of Tutesbury, Hamelin Earl Warren, William Earl of Salisbury, William Earl of Strigoil, Walran Earl of Warwick, Roger Bigot Earl of Norfolk, William Earl of Arundel, Ranulfe Earl of Chester, and many Barons. At which time Hubert Arch-Bishop of Canterbury Consecrated and Crowned John Duke of Normandy, King of England, upon Ascension-day, being the 27th of May, in St. Peters Church at Westminster.

Matth. Paris, who wrote toward the end of the Reign of Henry III. and died in the year 1259. after he had written from Hovedon, what is here related, says, *Congregatis itaque apud Lundonias in adventu ejus, Archiepiscopis, Episcopis, Comitibus, Baronibus atque aliis omnibus qui ejus Coronationi interesse debuerunt, Archiepiscopus stans in medio omnium dixit, &c.* That is, the Archbishops, Bishops, Earls and Barons, and all others that ought to be present at his Coronation, meeting

Pitfius An.
Dom. 1204.
Fol. 450. b. n.
10, 20, 30, 40,
50.
Ibid. fol. 451.
a. n. 10, 20, 30.
How King
John obtained
the Crown.

Ibid.

A. D. 1199.

Fol. 197. n. 20.
&c.
Mat. Paris his
Account how
King John ob-
tained the
Crown.
See exact Hist.
of the Succes-
sion in King
John.

K. John an U-
surper.

meeting at London, the Arch-Bishop standing in the middle of them all, made a Speech to them, and perswaded them to Elect John Duke of Normandy King, which they did, and he was Crowned as was said before: **He was set up and Crowned by Arch-Bishop Hubert and his Faction**, Arthur Duke of Britain, Son of Geofry his Eldest Brother, being the Right Heir, and then about Fourteen years of Age. But here is not the least mention of a Great Council, or the Commons, unless it be said, this Convention be one, as most certainly it was not, here were the Bishops and Temporal Lords only present, and Actors in this Transaction. There might be a great many of the *Commons Spectators* at this Solemnity; but the Bishops, Earls and Barons, were they, which acted and contrived the Crowning, and making him King, and they only were the **Clerus**, and **Populus**, the *Clergy* and *People*, or *Laity* here meant, the *Commons* having done nothing in this Matter, for ought what appears in the Story.

Preface p. 65.

50 Hen. 3.
m. 3.

Lastly, our Author says out of *Mat. Westm. f. 397. n. 50.* That 50 Hen. 3. *per providentiam Cardinalis*, meaning the Popes Legat, *apud Kenilworth Clerus & Populus Convocantur*, which the Patent Roll of that year thus confirms; The King à le Request de Honorable pier sire Ottobon legat de Engleterre son parlement Eust Summons à Kenilworth, where the Statute, or *dictum de Kenilworth* was made, between the King and his *Communante*, or *Parlement*: *Rex primo, postmodum Clerus & Populus Juraverunt, quod Dictum inviolabiliter observarent*: These are Mr. Petyt's words, and all he hath from *Matth. of Westminster*, or the Patent Roll; and from hence and some such other stuff proceeding, concludes, That, he hoped, at length he had fully ascertained, and explained the Historians Phrase, *Clerus* and *Populus*, and proved it to be a *Parliament* from the Patent Roll of Henry III. wherein I know no man opposeth him; but I see not, that he proves from thence, that the *Commons* as now understood and represented, were in that *Parliament*, or were any part of the *Populus*. But I think the contrary rather appears from his Authorities, when fairly cited and duely understood.

No Commons
in that Parlia-
ment that
made the *Di-
ctum de Kenil-
worth*.

Fol. 397.n.50.
f. 398. lin. 1.

First, *Mat. Westm.* tells us, that, *Favente Rege, per providentiam Cardinalis apud Kenelworth, Clerus & Populus Convocantur, Eligebantur ibidem duodecem persone, de Potentioribus procerum, & Prudentioribus Prelatorum, quibus dabatur potestas ordinandi sub statu Exharedatorum. Electæ persone Jurabant, de Utilibus ordinandis; Rex primo, postmodum Clerus & Populus Juraverunt. Quod Dictum ipsorum, inviolabiliter observarent: Dictum Ergo Kenelworthiæ tale fuit, &c.* The King favouring his Intention, by the providence of the Cardinal, the Clergy and Laity were called together at Kenelworth, where were chosen twelve Persons, the most powerful of the great Men, and Wisest of the Prelats, who had power of Ordaining, and making Terms concerning such whose Estates were taken from them. The Persons chosen did Swear to do things advantageous to all; The King first, and afterwards the Clergy and Laity sware inviolably to observe their Decree, called the Decree or *Dictum* of Kenelworth, whereof the Historian gives only some Heads.

The Record runs thus : *Nostre Seignor Henry par la Grace Dieu*
Rois de Engleterre lan de son Coronement Cinquantisme, as octaves
de l'assumption nostre Dame à la Requeste le Honorabl pere Sire Otte-
bon Legat de Engleterre son Parlement eust semons à Kenilleworth,
acorde fu & grante per Comun assen & Comun Conseil des Evesques, Ab-
*bes, Priors, Contes, Barons & tuz * autres ke sis Persones suz Escrites,*
Coeft a scavoir le Evesque de Excestre, Levesque de Bai, Le Estit de
Wircestre, Sire Aleyn la Zusche Sire Roger de Sumery & Sire Robert
Walerand par lur serment que iokes firent elisent autrès sis qui Miens
seient en Sospescon, & meuz sachent & voillent solonc lur intendement,
des queus vi uns sera prelatz, & les cync seront chevalers & ices doze
jurront sor seinz Evangilles, &c. Our Lord Henry, by the Grace of
 God King of England, the Fiftieth year of his Reign, in the Octaves
 of the Assumption of our Lady, at the Request of the honorable Fa-
 ther Sir Ottobon Legat of England, sommoned his Parliament at Ke-
 nelworth, where it was agreed and granted, by common Assent,
 and Common Counsel of the **Bishops, Abbats, Priors, Earls,**
Barons, and all others, that six Persons under written, that is to
 say, the Bishop of Excester, the Bishop of Bath, the Elect of Wor-
 cester, Sir Alan Zouche, Sir Roger Sumery, and Sir Robert Walerand,
 by their Oath there made, should choose six others, no ways sus-
 pected, who knew best, and would, according to their understand-
 ing, do what was best for the Security and Peace of the Land, of
 which six, one was to be a Bishop, and the other five Chevaliers or
 Barons; and those twelve swore upon the Holy Gospels, &c.

The twelve Commissioners that made the **Dicium** de Kenelworth,
 are all named in the Preamble of it, and were these, *W. Exoniensis,*
W. Bathon. & Wellens. W. Wigorn. & R. Menevens. Episcopi. Gil-
bertus de Clare Comes Glouc. & Hertfordia, Humfridus de Bohun Comes
Herefordia, Philippus Basset, Johannes Baliol, Robertus Waleran,
Alanus de la Suche, Rogerus de Somery, & Warinus de Bassingbourn,
super facto Exheredatorum, habentes à Domino Rege, & ab aliis Ba-
ronibus Consiliariis Regni, & proceribus Anglie plenariam potesta-
tem, &c. Walter Bronescome Bishop of Excester, Walter Giffard Bi-
 shop of Bath and Wells, Walter de Cantilupo Bishop of Worcester, R.
 Bishop of St. Davids, Gilbert de Clare Earl of Gloucester and Hertford,
 Humphry Bohun Earl of Hereford, Phillip Basset of Wycomb, John
 Baliol, Robert Waleran, Alan Zouche, Roger de Sumery, Warinus de
 Bassingborn. Having full power to determine concerning the Fact,
 of such as were dispossessed of their Estates, from the King, and from
 other Barons, Counsellors of the Kingdom, and the great men of
 England, &c.

Phillip Basset of Wycomb in Buckinghamshire, was a great Baron,
 and made Justice of England the 45th of Henry the Third; he was
 the last that stood and fought stoutly for the King in the Battle
 of Lewes, was there taken Prisoner, and sent to Dover Castle.

Alan Zouche of Ashby was a Baron in great Employments under
 King Henry all his Time, in 45th and 46th of his Reign, he was
 Warden of all the King's Forrefts, South of Trent, and Justice Iti-
 nerant of the Counties of Southampton, Buckingham, and Northampton.

Pat. 50. Hen. 3.
M. 9.

* i. e. Milites
& liberi Ho-
mines; the
smaller Tenents
in Capite.

How the Par-
liament was
summoned,
will be declar-
ed, when we
spe k of King
John's Char-
ter, or Magna
Charta.

Biblioth. Cot-
ton. Claud.
D. 2. f. 132. b.
No Commo-
ners amongst
the Commissi-
oners, that
made the Di-
cium de Kenil-
worth.

See Godw. de
Præful. in these
Bishops.

Dugd. Baron.
Tom. 1. f. 384.
col. 1, 2.

Ibid. fol. 689.
col. 1.

Ibid. fol. 524.
col. 1, 2.

John Baliol a great Baron, he had thirty Knights Fees, 13 *Hen. 3.* always faithful to the King, and taken Prisoner at *Lewes*.

Ibid. fol. 671.
col. 2.

Robert Waleran was a Baron, and in the Battle of *Lewes*, and in the Battle of *Evesham* with Prince *Edward*, and had several great Imployments under King *Henry*.

Ibid. fol. 680.
col. 1, 2.

Warin de Bassingborn was a Baron, and always faithful to the King, and at the Battle of *Evesham* with *Robert Waleran*.

Ibid. fol. 613.
col. 1, 2.

Roger de Sumery had one and fifty Knights Fees, 29 *Hen. 3.* in the Seventeenth of the same King, all his Lands in *Worcestershire* were seized, for neglecting upon Summons to take the Honor of Knight-hood, he was made Prisoner at the Battle of *Lewes*, fighting stoutly for the King.

No Commons in the Parliament, that appointed Commissioners to make the *Dictum de Kenilworth*.

If this Gentleman could have prevailed with himself, to have fairly cited this Historian and Record, certainly he could not, with any pretence of understanding, have produced them to prove, that the Commons, as now Represented, were in this Parliament: For the Record tells us what, and who the *Clerus & Populus* was, which the King called to *Kenelworth*, namely, the Bishops, Abbots, Priors, Earls, Barons, and all others; which all others, are sometimes expressed at large, by *Milites, liberi homines, or liberè Tenentes*; and sometime simply and inclusively by the words, & *omnes alii*, who were the smaller sort of Tenents *in Capite*, as will be evident by what shall be further said in that point hereafter.

Nor any Commons amongst the *Clerus & Populus*, the Clergy and Laity, that Constituted this Parliament.

By this Clergy and Laity, were six Commissioners chosen at first, who had Power to choose six more, all the Twelve, answer the Historians Description of them, in general. That they were of the more Potent of the great men, and more Prudent of the Prelates. And the *Dictum* it self tells us particularly the names of the four Bishops, two Earls, and six Barons, that made up that number, and informs us, that they had their Power from the King, and from other Barons, Counsellors of the Kingdom, and the *Proceres* or great men of *England*, which could be no other than the Bishops, Abbots, Priors, Earls, Barons, and the *all others* mentioned in the Record; and out of these it will be a hard matter for any observing Person to pick out one Commoner, though it's easie for this Writer to find out Hundreds.

P. 72.

Having dispatched the second Proposition, and examined his Preface, I shall still pursue his Method, and see, whether by the Records he makes use of, he hath proved his first Proposition, that is, the Commons, as Represented by Knights, Citizens and Burgesses, to have been a third Estate, or an Essential and Constituent part of the Parliament, before the 49th of *Henry* the Third.

His

His First Argument Considered.

A **T**HE *Authors First Argument* is, from the Claim and Prescription of the Burrough of St. Albans, in the Eighth of Edward the Second, that it had sent two Burgeses to Parliament, as other Burroughs had, as well in the time of his Father King Edward the First, as in the time of his Progenitors, and if so, in the time of King John his Grandfather, and so before Henry the Third; by what he hath laid together, by picking here a piece and there a piece out of this Record, he hath made a very specious Argument to prove there were, as at this day in the time of King John at least, Burgeses sent to the Parliament: and if there were no more in the Record than what he hath Transcribed, I could not but be of his mind. The whole Record here follows,

P. 3. & 7, 8, &c.

C *Ad Petitionem Burgensium villa de Sancto Albano, suggerentium Regi, quod licet ipsi tenent villam predictam de Rege in capite, & ipsi sicut ceteri Burgenses Regni ad Parliamenta Regis cum ea summoneri contigerit, per duos Comburchenses suos venire debeant, prout totis retroactis temporibus venire consueverunt pro omnibus servitiis Regi faciendis, qua quidem servitia, iidem Burgenses & Antecessores sui Burgenses villa predicta, tam tempore Domini Edwardi nuper Regis Angliæ, patris Regis, & progenitorum quam tempore Regis nunc semper ante instans Parliamentum, ut premitatur, prestiterunt; Nomina quorum Burgensium sic predicta villâ ad Parliamentum Regis venientium, in Rotulis Cancellariæ, semper irrotulata fuerunt. Nihilominus Vicecomes Regis comitatûs Hertfordiæ, ad procuracionem, & favorem Abbatis de Sancto Albano, & ejus consilium, Burgenses predictos premunire, ceu nomina eorum retornare, ut ipsi servitium suum predictum facere possunt penitus recusavit, in contemptum Regis & Burgensium predictorum præjudicium & exheredationis periculum manifestum, super quo petunt remedium opportunum.*

Parl. 8 Ed. 2. n. 233.
The Petition of the Burgeses of St. Albans.

R. est per Consil.

E *Scrutentur Rotuli, &c. de Canc. si temporibus progenitorum Regis, Burgenses predicti solebant venire, vel non. Et tunc fiat eis super hoc Justicia, vocatis evocandis si necesse fuerit.*

Responsio.

In English thus.

F Upon the Petition of the Burgeses of the Town of St. Albans, suggesting to the King, That although they hold the Town aforesaid of the King in Chief, and they as other Burgeses of the Kingdom, ought to come to the King's Parliaments, when they should happen to be Summoned, by two of their Fellow Burgeses, as they were used to do in all past times, for all Services which were to be performed to the King. Which Services the same Burgeses and their Predecessors, Burgeses of the said Town, have performed,

The Controversies about Members of the Lower House were then referred to the King and Council, in the time of Edw. 2.

performed, as is before declared, *as well in the time of Edward, late King of England, Father of the King and his Progenitors, as in the time of the King that now is, always before this present Parliament*: The Names of which Burgesses for the said Town, so coming to the King's Parliaments, were always inrolled in the Rolls of the Chancery; Nevertheless, the King's Sheriff of the County of *Hertford*, by the favor and procurement of the Abbot of *St. Albans*, and by his advice refused to warn the said Burgesses, or return their Names according to his duty, **that they might do their Service aforesaid**, in contempt of the King, and prejudice of the Burgesses aforesaid, and manifest danger of **disinheriting** of them, for which they crave an opportune Remedy.

It was answered by the Council.

The Answer
to the Petition.

Let the Rolls of Chancery be searched, &c. if in the time of the King's Progenitors, the Burgesses aforesaid used to come or not, and then let them have Justice in this Matter, and such as have been called, may be called, if there be necessity.

We find, in this Record, that the Burgesses of *St. Albans*, and of the other Burroughs, did, and ought to come to the Parliament by reason of their **Tenures in Capite**, for that it was in lieu of all other services to be performed to the King in respect of that Tenure. And then they say, in this Petition, that the Burgesses of *St. Albans* had performed these Services, as well in the time of *Edward the First*, and his Progenitors, as in the time of *Edward the Second*, always before that present Parliament, and urge the neglect of the Sheriff in not giving notice to the Burgesses, and returning their Names as a prejudice to them, *and a manifest danger of their being disinherited of this easie Service*; and having some other great or more hard Service put upon them, which in all probability must have been, if once they had lost this Service of coming to the King's Parliaments, which was in its self a discharge from all other Services.

St. Albans sent Burgesses to Parliament, not as a Burgh, but as a Town, that held of the King in Capite.

All this our Author hath concealed, to impose upon his Readers, and to make his Assertion to be believed by all such as are inclinable to it, or that have a Veneration for our *English* Records; for 'tis evident, the **Burgesses of St. Albans** claimed not, nor prescribed to come to Parliaments merely as from a **Burrough**, but as from a *Town that held in Chief of the King*; and this Service was incident to their Tenure, and was such as the King's Progenitors had accepted in lieu of all Services due by reason thereof.

King and His Council Judges, whether, and when Burgesses ought to come to Parliaments.

And further, the Answer to this Petition is Remarkable, for if it did appear by the Chancery Rolls, that the Burgesses of *St. Albans* were wont to come to Parliaments in the times of the King's Progenitors, *then such as have been called, should be called when there was necessity for it*. Hence 'tis clear, the King and his Council were equally Judges when it was necessary to call them, and for them to come; as they were of their Right, and pretences to come.

It

It hath been objected, by one that seldom knows or understands what he says, that *Evocatis Evocandis* cannot be understood of calling Burgeses to Parliament, but those words are so to be interpreted, that if after the Rolls were searched, farther tryal, or hearing of the Parties were necessary, they should be called, and their Reasons heard.

The Author of *Fus Anglor. ab antiquo*, p. 30.

A To this it is answered, that every Plea ought to be triable, either by the Country, if matter of Fact, or by the Justices, if matter of Law, or by the Record it self, if it consist in matter of Record, for the Law doth give so much Honor and Credit to Records, that they shall be tried only by themselves; This Trial therefore depending wholly upon Record, the words cannot be understood, of calling Parties in order to any farther Trial.

Cokes Reports part 9. the Case of the Abbat of Strata Marcella.

B

The Second Argument considered.

C OUR Author's Second Argument is grounded upon some parts of three several Records in the Fifteenth of King John, which he hath again picked out to serve his purpose, and impose upon his Readers. Yet in his Appendix he hath Printed two of these three Records, and wholly omitted the third, viz. the most necessary one, that concerns the Cities and Burghs, which he calls the great Record, and by which he endeavors to prove, that the great Cities and Burroughs, did send their Propres and Representatives to the Common Council, or Parliament, before the Seventeenth of King John; but instead of the Record it self, he D Prints and Publishes only the Direction of it to the Cities and Burroughs. And says, that the King being *in partibus transmarinis*, beyond the Seas wrote to thirteen Cities and Burghs, there named, and all the great Burroughs of the Demeasnes of the King, giving them an account of his Proceedings and Successes in his War against the French, and that the Pope, by his Letters, had Released the Interdict under which the Kingdom then lay, which the King had then sent to Peter Bishop of Winton, Chief Justice of E England; and therefore desired that they would believe what the Bishop should speak to them, that *Concilium & auxilium vestrum, ad honorem nostrum & vestrum & statum regni nostri in melius commutandum efficaciter super hoc apponatis*, and that *Majori festinatione expediretur. Teste Apud Rupellam 6 die Martii*, that they might effectually give their Advice and Aid concerning the Relaxation of the Interdict to the King's Honor and their own, for the bettering the State of the King, and that very speedily; Witness Our Self at Ro- F chel the sixth day of March.

P. 13, 14, 15, 16.

P. 158, 160.

P. 14. lin. 2.

Ibid. lin. 13.

Ibid. p. 15.

Ibid. & p. 16.

None of these last Words, nor indeed not many of the former, do belong to, or are to be found in this great Record (as he calls it) but he takes them out of another, and applies them to this; and therefore for the discovery of this Artifice, and unhandsome dealing with, and false Application of Records, I must, though it prove

tedious to the Reader, Transcribe both these Records, the first whereof follows.

Pat. 15. Johan-
nis, p. 2. m. 2.
Richard I. died
April. 6. 1199.
The Writ to
the Nobility,
&c.
K. John com-
mitted the Cu-
stody of Eng-
land to P. Bi-
shop of Win-
ton, and made
him Justiciary
during plea-
sure at Port-
smouth, Feb. 1.
Pat. 15. Johan-
nis, m. 4. n. 11,
12.

Vid Gloss. verb.
fidelis, The
King Wrote
particularly
to William
Marshall, and
all the Earls.
At this time
the Interdict
was not actu-
ally Released,
but upon the
29. of June
following.
Mat. Paris,
fol. 249. n. 50.
Secundum quod
idem Episcopus
vobis Dicet.

P. 158, 159.
The Author
makes one Re-
cord out of
two pieces of
Different Re-
cords, from
which being
put together,
he frames this
Argument.
Pat. 15. Johan-
nis, p. 2. m. 2.
The King's
Letter to the
Cities and
Burghs.

Rex Baronibus, Militibus & omnibus fidelibus totius Anglie salutem,
Sciatis quod die Martis proxima ante medium quadragesime suscepimus
Literas Domini Papae in partibus Pictaviae de facta relaxatione Inter-
dicti Anglie, quas destinavimus venerabili Patri Petro Winton,
Episcopo Justiciario nostro, & vos regamus attentius tanquam dilecti
& fideles nostri, de quorum Dilectione & fidelitate plene confidimus,
quatenus secundum quod Idem Episcopus vobis dicet Concilium
& Auxilium vestrum, ad honorem nostrum & vestrum, & statum
Regni nostri in melius commutandum efficaciter super hoc apponitis,
ut vobis inde, ad uberes teneamur gratiarum Actiones & ut Dilecti-
onem, quam hactenus erga nos habuistis in hoc, merito dehinc com-
mendaremus. Unicuique vestrum si fieri potest, Literas nostras
super hoc transmissimus, sed ut negotium illud quod & nobis
& vobis ad commodum cedat & honorem cum majori expediretur
festinatione, has Literas, &c. Teste meipso apud Rupellam vi. Die
Martii.

The King to Barons, Knights, and to all * Feudataries, or Vas-
sals through England, Greeting. Know ye, that being in Poiston
on Tuesday next before the middle of Lent, We received the Popes
Letters concerning the Release of the Interdict of England, which
We sent to the Reverend Father, Peter Bishop of Winchester, our
Justiciary; and We require you earnestly, as Our well-beloved,
and Feudataries, of whose Kindness and Fidelity We have a full
confidence, that according to what the same Bishop shall say un-
to you, ye may effectually give your advice and aid in this matter, to
our Honor and yours, and for changing the state of the Kingdom
into the better: That therefore We may be obliged to give you
greater thanks, and that in this Affair We may worthily commend
the Kindness you have had towards Us hitherto: We had sent
Our Letters to every one of you, if it might have been done, but
that the business might redound to Our and your Honor and Profit, it
ought to be dispatched with greater hast. Witness my Self at Rochell
the sixth day of March.

After this Record in his Appendix, he subjoyns the Names of the
Cities and Boroughs with the same Circumstances, and after the same
manner as they follow at the bottom of the next Record, upon the Patent
Roll of this year in the Tower, there being upon that same Roll, not
the least mention or note of them under this foregoing Record.

Rex probis hominibus Cant. salutem, sciatis Nos & Fideles nostros quos
nobiscum adduxerimus in Pictav. sanos esse & Incolumes & in gaudium
& Letitiam amicorum, & confusionem inimicorum nostrorum. Negotia
nostra gratia Dei incepimus expedire, Die autem Dominica proxima ante
medium Quadragesime Obsedimus castrum de Milefen, quod Porcelinus de
Mansy contra nos munierat, & nos die Martis sequenti castrum illud vi-
cepimus, & ibi suscepimus per Mannus Fratris William de Sancti Andoeno
Literas Domini Papae de facta Relaxatione interdicti in Anglia quas de-
stinavimus V. P. N. P. Episcopo Winton Justiciario nostro; & vos ro-
gamus attentius, quatenus secundum quod Idem Episcopus vobis
scire

scire faciat, ad Interdictum illud Relaxandum in prestando Nobis subsidium efficaciter impendatis. Ita quod Dilectionem vestram merito commendare debeamus. Scituri quod prestiteritis, & quod nobis ad hoc feceritis, plene vobis reddi faciemus cum gratiarum Actione. Teste Meipso apud Rapellam viii. Die Mart.

No Concilium,
or Auxilium.

A

Majori & Baronibus Lond.
Majori & probis hominibus Winton.
Probis hominibus Northampton.
Eodem modo scribitur } Linc.
Ebor.
Oxon.
Glouc.

B

Eodem modo scribitur omnibus Burgis & Dominicis Regis.

{ Heref.
Exon.
Wigorn.
Cantebr. & Hunt.
Bristol.
Norwic. } Dat. eadem.

C

The King, To the Good Men of Canterbury, Greeting. Know ye, that We and Our Feudataries, or Soldiers, which We brought with Us into Poitou, are safe and sound, And to the Joy of Our Friends, and Confusion of Our Enemies, by the Grace of God We have entred upon Our Business. On Sunday next before Mid-Lent We besieged the Castle of Milesen, which Porcelin de Mansy had Fortified against Us, and on the Tuesday following We took it by force; And there We received it by the hands of the Brother of William of St. Owen: The Pope's Letters about Releasing the Interdict in England, which We have sent to Our Reverend Father Peter Bishop of Winchester, Our Justiciary. And We earnestly require you, that according to what the same Bishop shall give you to understand, you effectually apply your selves to give us a Subsidy, toward the Relaxation of the Interdict, so that We may worthily commend your Kindness, knowing, that what you shall give, or lend, or do for Us, upon this occasion, shall be fully repaid, with Thanks. Witness Our Self at Rochell, the eighth day of March.

D

See the Kings Letter directed to William Earl Marshall. Rot. pat. 15. Johannis, p. 2. m. 1. Vobis scire faciat, not vobis Dicet.

E

The King Wrote in the same manner. } To the Mayor and Barons of London.
To the Mayor and Good Men of Winchester.
To the Good Men of Northampton.
Lincoln.
York.
Oxford.
Gloucester.

F

After

After the same manner the King Wrote to all Burghs which held of him in *Capite*.

{	Hereford Excester Worcester Cambridge, and Huntington Bristol Norwich	}	Of the same Date.
---	---	---	-------------------

A

The Author unhandfomly annexeth the Direction and latter part of the Record to the Burghs, to the Writ directed to the Barons, p. 159 & p. 14, 15, & 16. jumbling and mixing them together, as one Record.

This Record or Letter of the King to the Cities and Boroughs, our Author hath concealed, and (as I intimated before) *placeth under the first Record, or Letter directed to the Barons, Knights, &c. The last part of this Record, concerning the Cities and Boroughs, Eodem modo scribitur, &c. as before recited, and makes it part of that Record.*

B

These two Records are very much different one from the other, and differently worded. In the first the Barons, Knights, &c. were to do *Secundum quod Episcopus diceret*, according to what the Bishop should say, or speak to them, and *concilium & auxilium apponere*, to give Advice and Aid. In the second, to the Cities and Boroughs, the Citizens and Burghers were to behave themselves, *secundum quod Episcopus scire iisdem faceret*, According to what the Bishop should give them to understand, by sending to them in all probability these Letters, and enforcing them by one of his own, to be Read in their Common Halls, or Burghmotes, to perswade them, *ad Interdictum relaxandum efficaciter subsidium impendere*, effectually to yield their Assistance towards the Releasing the Interdict, and so as the King sayes, *quod presteritis ad hoc plene vobis reddi faciemus*, that what they contributed he would fully repay them. And this Letter to the Cities, &c. bears date the eighth of March, whereas the Letter or Record he uses to serve his turn, to the Barons, &c. bears date March the sixth, two days before, and so it is upon the Roll. This Letter to the Cities and Burghs, which held of the King in *Capite*, was only to borrow Money of them towards the Charge of releasing the Interdict. Nor hath it any ways the Form of a Precept, or Writ of Summons to a Great Council or Parliament: Nor is there in it the least hint, or directions given to the Cities or Boroughs for sending their Proxies and Representatives (as he calls them) to any Great Council: Nor doth it direct, that every individual Citizen or Burghers, or any at all, should go to hear what the Bishop would speak to them; But he was to let them know the Kings mind by Message, or Writ to them, to lend the King Money upon this particular occasion: And yet he confidently affirms, he hath proved, that the Citizens and Burghers had their Summons to Parliament 16 *Johannis*, by a particular Writ (meaning this) distinct from the Lords.

C

D

E

F

P. 16.

They were *subsidium impendere* only, not *Concilium & Auxilium apponere*, as 'tis said in the Writ to the Barons.

P. 14.

P. 20.

I confess, the first Record carries with it much probability that Peter Bishop of Winchester, had Commission and Authority to call a Great Council, and that this very Letter was a direction to that purpose;

purpose; and a short Narrative concerning the Interdict will make it clear.

The Original of it, was a Quarrel between King *John* and the * Pope, about making an Archbishop of *Canterbury*; the King was very desirous to have *John de Grai* Bishop of *Normich*, to be Archbishop. And gave the Monks a *Conge D'eslire*, who unanimously choose him, and the Prior declared him elected; yet some of the Monks had clancularly chosen one *Reginald* their Sub-Prior, Archbishop, both Parties apply themselves to the Pope, to confirm their Elections; he cassates both, and commands the Monks of both Parties, by vertue of their Obedience, and under a Curse, to choose *Stephan Langton* a Priest, Cardinal. Archbishop, and they fearing to be Excommunicated, elected him, though against their Minds, whom the Pope Consecrated, and Writes to the King to receive him to the Archbishoprick, being Canonically elected.

At which, being very angry, he charged the Monks with Treason, for choosing his professed Enemy Archbishop. Who, though an English Man, was always educated at *Paris* amongst his Enemies; and expelled them the Kingdom as Traytors, and writes to the Pope that he had subverted the Liberties of his Crown, and that therefore he would Prohibit all People going to *Rome*, and from making Appeals thither, for that they should receive Justice and Judgment in all things at home.

The Bishops, by vertue of their Obedience to the Apostolick See, by their Letters gave notice, they would receive and obey *Langton* as their Pastor; but the King not receding from his purpose, the whole Kingdom was put under an Interdict, *March 23. 1208.* The Bishops of *London, Ely, and Worcester*, executing it at the Pope's Command, and then they and the Bishops of *Bath and Hereford* went privately out of *England*.

The King incensed with these Proceedings, banished the Bishops, put their Bishopricks, Abbies, and Priories under the Custody of Lay-men, Confiscated their Rents and Goods, caused their Barns and Granaries to be broken up, and their Corn to be sold. And also the *Forcariæ*, or Domestick Concubines of the Clergy to be seized, and taken into Custody, and by the Redemption of them, raised a great Sum of Money: After this, the Pope, by the advice of his Brethren the Cardinals, commanded the Bishops of *London, Ely, and Worcester*, by Name to Excommunicate the King; which Sentence, though the Bishops dare not execute, yet it was published among the People, much to the prejudice of the King.

In the year 1211. *Pandulph*, a great Familiar of the Pope, and *Durand* a Templar, were sent from him to make Peace inter Regnum & Sacerdotium, between the King, Temporal Barons, and the Bishops, &c. or between the Laity and Clergy. The King freely granted, that the Archbishop and Monks of *Canterbury*, and all the proscribed Bishops, might return in quiet, and remain in their former Condition, but because the King would not

An Interdict is an Ecclesiastick Censure, Prohibiting the Administration of the Sacraments, the Burial of the Dead, and all or most Divine Offices, *Mat. Paris*, fol. 213.

n. 30, 40. * Pope Innocent 3d.

Two Arch-Bishops elected.

Mat. Paris, fol. 222. n. 10, 40, 50.

The Pope Cassates both Elections, &c. *Ibidem*, & fol. 223. l. 3.

Ibidem, n. 30, 40.

Ibidem, n. 50.

Ibid. fol. 224.

n. 20, 30.

The King threatens to prohibit Appeals to *Rome*.

Ibid. fol. 226.

n. 10.

Ibid. n. 30.

Ibid. n. 40.

The Kingdom put under an Interdict.

Ibid. n. 50.

Ibid. fol. 227. l. 1.

Ibid. fol. 228. n. 30.

The Pope commands the Bishop of *London, Ely, and Worcester*, to Excommunicate the King by name.

Pandulph sent to make Peace

Ibid. fol. 230.

n. 40, 50.

Ibid. fol. 231.

n. 10.

Ibidem.

The Pope Absolves the Kings Subjects from Obedience.

Ibid. n. 20.

Ibid. fol. 252.

n. 50.

Translated verbatim out of Mat. Paris Historiographer to Hen. 3. Son to King John, and a Monk of St. Albans, and a Favourer of these Practices of the Clergy.

Ibid. n. 40.

The Pope deposed King John.

And gave his Kingdom to the King of France.

Ibid. n. 50.

Ibid. fol. 233.

n. 20.

A. D. 1213.

A Council between the English Bishops and King of France, &c.

Ibid. n. 30, 40.

Ibid. fol. 234.

n. 30, 40.

Pandulph frights King John.

not make satisfaction to the Archbishop and Bishops, for their damages sustained, and their Goods confiscated; these Nuntios or Messengers returned without effecting any thing, and upon their Report to him, the Pope admiring his Contumacy, Absolved all his Subjects, high and low, rich and poor, from their Obedience and Subjection. And upon pain of Excommunication, commanded them all to avoid him at his Table, in his Councils, and in ordinary Discourse. Such of the Great Men as adhered to the King, Bishops, Clergy, Temporal Barons, &c. had the Character of Evil Counsellors, part of whom Paris enumerates, viz. nine and twenty Earls, Barons, and Great Men, and three Bishops.

The year following, Anno 1212. Stephan Langton Archbishop of Canterbury, the Bishops of London and Ely went to Rome, and informed the Pope of the many Rebellions and Enormities King John was guilty of, from the time of the Interdict to that day, indefatigably lifting up the hand of Rage and Cruelty against the Lord and Holy Church. And then humbly beseech the Lord the Pope, that he would take some care to relieve the English Church ready to perish; and in a great fit of Sorrow for the Desolation of the Kingdom of England, by the advice of the Cardinals, Bishops, and other Wise men, Sententially defined, that John King of England should be deposed, and another more worthy appointed to succeed him, and to that purpose wrote to the most potent Philip King of France to execute this Sentence, and that if he would take the labor upon him to Dethrone the King of England, he should have remission of all his Sins, and he and his Successors possess that Kingdom by perpetual Right. And further the Pope wrote to the great Men, Soldiers, and Warriors of many Nations, that they would take upon them the Crusado to that purpose, and follow the King of France as General, in this Expedition, in vindicating the Injury done to the Universal Church: With this Message the Pope sent Pandulphus, and the Archbishops and Bishops aforesaid into France, from whom Pandulph had private Instructions, that if the King would repent and make satisfaction to the Lord, and the Roman Church, and all others concerned in that business, and submit to a form of Peace drawn by the Pope, then he might find favor from the Apostolick See.

In the month of January next year, the Archbishop of Canterbury, Bishops of London and Ely, came from Rome, and held a Council with the King of France, the French Bishops, the Laity and Clergy, and promulgated the Sentence against King John. The King of France having raised a great Army to invade England; of which King John having notice, raised also a great Army, and expected his Arrival upon the Coast of Kent near Dover. Pandulph sent two Templars, to let the King know he desired to speak with him, by whom the King desired he would come to him with speed. They meet at Dover, when Pandulph tells him, what a vast Navy and Army the King of France had at the Mouth of the River Sein ready to set sail, and take Possession of his Kingdom, and doubted not but to make short work of it, having, as he boasted, Charters or Assurances from most of the Great Men of England of their Fidelity and Obedience to him.

Being

Being terrified and confounded with this News *King John* by the perswasion of **Pandulph** submitted to the form of Peace as it was drawn up by the **Pope**; in which he sware to stand to the Commands of the **Pope**, before his **Legat** or **Nuncio**, in all things, for which he had been Excommunicated; and to make full Restitution and Recompence for all things which had been taken away from the Clergy or Laity by reason of the **Interdict** or present Quarrel.

Ibid. fol. 235.
n. 10, 20.
He submits to a form of Peace drawn by the Pope.

A

But this was not a sufficient Submission, he must become Homager to the **Pope**; and his Offence was so great against God and his Mother the Holy Church, that nothing but granting his Kingdoms of England and Ireland to the **Pope**, and making them St. Peter's Patrimony, and becoming his Vassal could expiate it; And he must also declare that he did all this freely and voluntarily by the advice of his Barons, and not compelled by Fear, or the Force of the **Interdict**. This done, **Pandulph** returns into France with 8000 l. part of the Restitution Money, for damages which was to be Paid to the Arch-Bishop and other Bishops, which were there, (as they pretended in Exile.)

Ibid. fol. 236.
n. 40, 50, &
237. n. 10, 20,
30.

There is the whole Grant and Form of King John's doing Homage to the Pope on the Eve of the Ascension.

A. D. 1213.
King John is forced to become the Popes Vassal.
Ibid. f. 236. n.
10 f. 237. n. 40.
Ibid. 238. n. 50.

B

King John now thought himself at ease, and cast about him how to be even with the King of France, and sets the Earl of Flanders to invade his Kingdom on the East part, while he passed over into Poicton with an Army, and entred France on the West part to recover what he had lost: to which purpose he assembles a great Army at Portsmouth; but when they came together, the Great Men and Barons refused to follow him unless he were absolved from the Sentence of Excommunication. The King much moved at this denial, sent the Charters or Letters of Assurance of 24 Barons to the prescribed Bishops, that they might return into England, without the least fear, and receive recompence for all damages, according to the form of Peace. They landed at Dover the 16th of July, and the 20th of the same Month the King was absolved, Swearing Fealty and Obedience to the **Pope**, &c.

Ibid. fol. 239.
lin. 1.

The Barons deny to follow the King unless he were Absolved, &c.

A. D. 1213.
The King and 24 Barons send the Bishops a safe Conduct to return.

Ibid. lin. 6. n.
10, 20.

The King is Absolved, and Swears Fealty and Obedience to the Pope.
Ib. n. 30.

D

After this Absolution he made haste to Portsmouth, that he might pass into Poicton, committing the Government of the Kingdom to Geofrey Fitz-Peter, and the Bishop of Winchester, with direction that they should Order all the Affairs of the Nation with the Advice of the Arch-Bishop of Canterbury. When the King came to Portsmouth, his Great Men, Knights, and such as held by Military Tenure, complained they had been there so long in expectation of their Voyage, that all their Money was spent; and unless he would furnish them out of his Treasury, they could not go with him, so that nothing was further done in this Expedition.

E

King John seeing this design frustrated, and himself deserted, contrary to their Tenures and Duty, he raised Force to reduce them to Obedience; the Arch-Bishop told him he violated his Oath he took at his Absolution, and that he could not make War against any one without the Judgment of his Court. And the King proceeding, he further told him, that unless he did quickly desist, he would Anathematize all those that should take Arms against any Man before the Relaxation of the **Interdict**. By which means he caused the King to give over prosecuting the Barons by Force, and left not the King

Ibid. n. 50.

Ibid. f. 240. l. 1.

A. D. 1213.
Ib. & fol. 240.
n. 10.

Ib. & f. 245.
n. 20.

Ib f. 246 n. 30.

Episcopi &
Magnates
Regni.
Ibid. n. 50.
A Treaty inter
Regnum & Sa-
cerdotium
Now 12 times
as much.

Ibid. fol. 247.
n. 20.

A. D. 1214.
pat. 15.
Johan. m. 7. n.
19. apud
Reading.
Paris ut supra.

A. D. 1214.
Regni Johan-
nis Regis 15.
Ib. f. 248. n. 20.

The Matter of
the Kings Let-
ters to the Ba-
rons and
Burghs.
Ib. f. 249 n. 10.

Forty thou-
sand Marks to
be paid to the
proscribed
Bishops.

until he had obtained a competent day for them to answer in his Court. But probably before that day came, or else to protect them from the Execution of the Justice of the Kings Court, viz. On the 25th of August that year, he caused a great Meeting of Bishops, Abbats, Priors, Deans, and Barons at London, where they enter into a Confederacy against the King, when they should have a fit opportunity, and grew so troublesome to him about their pretended Liberties, that he sent to the Pope, promising him great Rewards to Excommunicate them.

But about next Michaelmas following, Nicholas Bishop of Tusculum, the Popes Legat came into England, ut dissentiones inter Regnum & Sacerdotium, autoritate Apostolicâ reformaret, that he might compose the dissentions between the Temporal Nobility, and the Clergy, by the Apostolick Authority, and there was a Meeting of the Bishops and Great Men of the Kingdom, before the King and Cardinals at London, & tractatum ibidem per triduum inter Regnum & Sacerdotium de damnis, &c. And there was a Treaty between the great Men and Bishops for three days, concerning the damages of the Bishops, &c. when the King offered 100000 Marks as a full satisfaction for them all; The Legat perswades the Bishops to accept this Offer; they suspect the Legats favour to the King, and had several other Meetings at Reading and Malinsford, about the state of the Damages, and on the 12th of December, the proscribed Bishops received 15000 Marks more. At this Meeting were the King, the Legat, the Arch-Bishop, Bishops, cum Magnatibus ac omnibus viris Religiosis, ad Interdicti negotium contingentibus; The Barons or Great Men and all the Religious who were any ways concerned in the business of the Interdict; and every one brought in Writing a Catalogue of their Ablata or Damages; but by the Legats favour to the King, they were put off, and received no Money except the Bishops aforesaid.

Notwithstanding this submission of the King and his giving away his Crown to the Pope, the Interdict still remained. So that the next year the King renewing his former design against the King of France, in the Feast of the Purification of the Blessed Virgin, sent Messengers to Rome for the Relaxation of the Interdict; and at the same time he, and his Queen, took Ship at Portsmouth with a great Army, and in a few days arrived at Rochel. Upon the 6th and 8th of March following these Letters to the Barons, &c. and to the Cities and Burroughs beforementioned were sent to them, to give them notice of his Success, and let them know the Pope had consented to the Release of the Interdict.

That to the Cities and Burroughs was to borrow Money towards the Charge of this Affair; and that to the Barons, &c. to ask their advice and aid in the effecting of it. In the mean time the Pope having heard both Parties, by their Commissioners or Proctors at Rome, and being satisfied it was much to the advantage of the Nation and good of Souls, he wrote to the Bishop of Tusculum his Legat, to take off the Interdict, upon condition the King should pay to the proscribed Bishops 40000 Marks, discounting what he had paid to them before. When the Legat had received his

A

B

C

D

E

F

A his Authority to release the Interdict the King was beyond Sea, and made the Legat and William Marshall his Commissioners to act for him. *Idem Legatus in urbe Londinensi apud Sanctum Paulum grande congregavit Concilium, ubi congregatis Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & aliis ad hoc negotium Interdicti Spectantibus proposuit, &c.* That is, the same Legat convened a great Council at London in St. Pauls, where were the Arch-Bishops, Bishops, Abbats, Priors, Earls, Barons, and others concerned in the Business of the Interdict, and propounded the form of Restitution the Pope had drawn up at Rome, and it being proved the proscribed Bishops had Received 27000 Marks, there rested only 13000 more to be paid to them; for which the Bishop of Winchester, and Norwich undertook to pay, and then the Legat on St. Peters Day the 29 of June released the Sentence of the Interdict after it had continued Six years, three months, and fourteen days.

The Popes Legat by the Kings Authority calls a great Council:

Ibid n. 30. 40.

The Constituent parts of that great Council.

The Interdict released.

A. D. 1215. 16 John.

B The Interdict thus released, there came to the Legat an innumerable multitude of Abbats, Priors, Templars, Hospitalers, Abbesses, Nuns, Clerks, and Laics, requiring restitution for the Damages and Injuries they had received in the time of the Interdict; but the Legat answered them all alike, that there was no mention of their Damages, and Injuries in the Popes Letters, and that he neither ought, or could, transgress the Bounds of his Authority: and indeed most of these, the Religious especially, could require nothing, for the King had procured from most Religious Houses, Testimonials, that what he had from them, was freely given him. But when by the Authority of the Pope they thought they might have a compensation for them, then they called those things which they had given to the King Ablata, things taken from them; for at this time the Pope had by Mandate ordered Commissioners from him to Tax a Sum upon the King to be paid by 12000 Marks a year in recompence of the Ablata or Goods taken from the Clergy, &c. And the King bound himself by Oath, and had also six Undertakers with him, W. E. Ferrers, the Earls of Chester, Winchester, and Arundel, William Bruer, and William Marshal, for the performance of it.

Ibid. n. 50.

Ibid. fol. 233. n. 30.

Rex requirit Religiosos ut confirmet que ei dederint tempore interdicti quæ runc ablata vocantur. Pat. 16. Joh. par. 1. m. 10. Dors. and the acquittance for them is upon Record.

Ibid. m. 8.

Dors. n. 1.

Ibid. m. 17.

Dors. n. 1.

17 Junii Chart. 16 Joh m. 9. n. 67. in Andevagia.

E This being the History of the Interdict by Reason whereof the King and Kingdom were reduced to great streights, the intention of calling this Council was for the raising of Money to satisfy the Bishops and Clergy for their pretended Damages, and likewise for a gratuity to the Pope (of whom Mat. Paris says, he was ambitious above all Men, proud, and insatiably thirsty after Money, and prone to all wickedness, for Rewards either given or promised) and Pandulph his Legat, that the Interdict might be taken off; which in those days were not small Sums, as may be concluded by 40000 Marks given to five Bishops only.

A Council called for Raising Money to clear the Interdict.

Fol. 245. n. 10.

F And it shall be granted that the first Record, by which King John required Advice and Aid of the Barons, Knights, and all the Feudatories of all England towards the releasing of it, was a Summons to a great Council, yet it will not by this Record be made out, that the Commons were Represented in it, or made an essential part of it. For the Milites & omnes fideles totius Anglie, to whom this Writ was directed, next after the Barons, were only the Tenents in Capite,

Barons Peers.

Milites & Fideles were Tenents in Capite in this Record.

It was the ancient Custom, for our Kings to send Letters to all Tenents in Capite, to Summon them to Parliament.

Paris fol. 257. n. 20, 30.

The Law of Summons to great Councils or Parliaments.

Barones Capitales minores, sunt qui a Rege Tenent in Capite. Spel. Glossar. fol. 69. col. 2.

which were no real *Barons*, yet were often called to *Great Councils*, as *Barons Peers*. And such that were not actually *Barons*, there are many *Instances*, of their being called to sit amongst the *Lords* sometimes, and sometimes again omitted in several *Kings* Reigns after the *Commons* were a *third Estate*, and *Represented* as at this day. And that the *Milites & Fideles* mentioned in this Writ were only *Tenents in Capite*, 'tis very clear from the close of the *Writ* it self, where 'tis said, *Unicuique vestrum si fieri potest Literas nostras transmissimus, sed ut negotium expediretur majori festinatione, &c.* We had sent our *Letters* to every one of you, if it might have been done, for the *Business* it self, which requires a quick dispatch, &c.

It cannot be thought that the *King* ever wrote to all the *Knights* and *Feudataries* of *England* to meet in a *Great Council*, or if *Fideles* be taken in the largest and the most comprehensive sense that may be, for *Subjects* in *General*, no man can believe that ever any *King* did write particular *Letters* to every individual *Subject*, or *Freeholder* to come to, and send their *Representatives* to *Great Councils*. And therefore whatsoever the words of the *Writ* are, the design of it was to convene, such only as had usually in those times been called to *Great Councils*, which were the *Tenents in Capite* though no *Barons*, who only *Represented* themselves, and not the *Commons*, and were all summoned by particular *Writs*, and not sent or chosen by the *People*, and this *Appears* to be so by the irrefragable authority of *King John's Magna Charta*, confirmed at *Bunne Mede* not full two years after, which was to be a *Law* for the summoning of *Great Councils*, or if our *Author* please, *Parliaments* in the subsequent times. The words are *Submoneri faciemus Archiepiscopos, Episcopos, Abbates, Comites, & Majores Barones Regni singillatim per Literas nostras, & preterea faciemus submoneri in generali per Vicecomites & Balibos nostros, omnes alios qui de nobis tenent in Capite ad certum diem, scilicet ad terminum quadraginta dierum ad minus & ad certum locum in omnibus literis submonitionis istius, causam submonitionis istius exponemus; & sic facta submonitione negotium procedat ad diem assignatum, secundum concilium eorum qui presentes fuerint, quambis non omnes submoniti venerint.* We will cause to be summoned, the *Arch-Bishops*, *Bishops*, *Abbats*, *Earls*, and the great *Barons* of the *Kingdom* severally by our *Letters*, and moreover we will cause to be summoned in general, by our *Sheriffs* and *Bayliffs*, all others which hold of us in *Capite* at a certain day, to wit, at the term of 40 days at least, and at a certain place. In all our *Letters* of *Summons* we shall declare the cause of the *Summons*, and so they being summoned, the *Business* shall proceed at the day assigned, according to the advice of such as are present, although all that were summoned shall not come.

By this *Law* the way and manner of *Summons* to great *Councils* was settled, and made more easie than it was formerly; for by the former *Writ* the 15th *Johannis*, it appears to have been the custom for the *King* to write to every one of the *Milites & Fideles*, or *Tenents in Capite*, which were no formal *Barons*, particularly as he did to the *Barons*, and that the *Custom* was so, 'tis likewise implied in this establishment of *Summons* for the future, that it should

be

A be by particular *Writs* to every great *Baron*; and in General to all *Tenents in Capite*, by *Writs* directed to the *Kings Sheriffs* and *Bayliffs*. Hence 'tis evident, that only the *Arch-Bishops, Bishops, Earls, Barons, and Tenents in Capite*, were usually summoned to *Great Councils*. For if there had been any others to have been summoned, the like care would have been taken to settle the way of *Summons* to them as there was of these. And it is as evident from hence who were constituent parts of *Great Councils* and *Parliaments* in these and the following times until the 49th of *Henry the Third*, or 18th of *Ed. 1*.

The constituent parts of great Councils.

B And we have the practice and use of this Law confirmed by a very clear Record, twenty years after, in the Reign of *Henry the Third*. *Rex Vicecom' Suffex Salutem. Scias quod Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, & omnes alii, de regno nostro Anglie qui de nobis tenent in capite, spontanea voluntate sua, & sine consuetudine, concesserunt nobis efficax auxilium, ad magna negotia nostra expedienda. Unde provisum est de consilio eorum quod habeant de singulis feodis Militum & Ward. qui de nobis tenent in capite, duas Marcas ad predictum auxilium, nobis faciendum, & unde providerint, reddere nobis unam medietatem ad festum Sancti Michaelis An. Regni nostri 19. & aliam medietatem ad Pascha Anno Regni nostri 20. Ideo tibi precipimus, quod ad Mandatum venerabilis Patris R. Cicestriensis Episcopi Cancellarii nostri, sine dilatactione distringas omnes Milites & Libere Tenentes qui de eo tenent, per Servitium militare, in Balivâ tuâ ad reddendum ei de singulis feodis & Wardis duas Marcas ad predictum auxilium nobis per manum suam reddendum in terminis predictis.*

Cl. 19 Hen. 3. m. 8. Dors. The Ancient Members of Parliament.

An Aid given.

Two Marks of every Knights Fee.

D Sic Scribitur pro aliis Episcopis, Abbatibus, Prioribus, & Magnatibus.

E The King to the Sheriff of *Suffex*, Greeting; Know ye that the *Arch-Bishops, Bishops, Abbats, Priors, Earls, Barons, and all others of our Kingdom which hold of us in capite*, have granted us an effectual Aid on their meer good Will, and without Custom, of every *Knights Fee two Marks, &c.* Therefore We Command thee that according to the Command of *R. Bishop of Chichester*, our Chancellor, you distrein all Knights and Free-Tenents which do hold of him by Military Service in thy County or Bayliwick to pay him for every Knights Fee, &c. two Marks to be paid by him to us.

To quicken their Tenents.

After the same manner it was written for other *Bishops, Abbats, Priors, and Great Men.*

F

His

His Third Argument Considered.

Parliament
Roll.
The Pope de-
mands Ho-
mage of King
John.
Rot. Parl. 40
Ed. 3. n. 7.
And 1000
Marks per an.

IT is drawn from 40 Ed. 3. n. 7. 8. King John in the 14th of his Reign, had made himself and Crown tributary to the Pope, by Homage and the Payment of 1000 Marks by the year. The Pope in the 40th of Edward III. demands Homage of him, and a 1000 Marks per Annum for the Kingdoms of England and Ireland, and in case of non-performance, he threatens to make out Process against the King and Kingdom; whereupon the King asks advice of his Parliament, and the Bishops by themselves, and the Dukes, Earls, Barons, and Great Men by themselves answered, and said, that the said King John, nor no other could put himself, nor his Realm, nor his People in such subjection, without the assent and accord of them.

Ibid. n. 8.

And the Commons being demanded about the same thing, Responderent en mesme la manere, answered in the same manner; and in Number 8. Les Prelates, Ducs, Countes, Barons, & Communs en sur ce plein deliberation Responderent & desloient D'une accord que le dit Roy Johan ne nul autre purra mettre luy ne son Royalm ne son people en tiel subjection saunz assent de eux. The Prelats, Dukes, Earls, Barons, and Commons in full deliberation upon this matter, answered, and said, with one accord, that the said King John, nor no other, could put himself nor his Realm, nor his People in such subjection, without their Assent.

It was 153
years from
the 14th of
King John to
the 40th of
Edward III.
Ibid. n. 7.

All that the Resolution of this Parliament in this Case proves, is that King John could not subject Himself, his Realm or People, without their Assent, but proves not, who they were that in such Cases at that time gave or denied their Assent, or how they did it, or whether 153 years before this Resolution, the Commons were represented by Knights, Citizens, and Burgesses, as at this day.

The Prelats and Barons gave their answer first, that such a subjection could not be made without their Assent, and then the Commons were asked what their thoughts were, and they answered in the same manner, and in the same words the Barons had done. And when they answer all together, they do it in the same form of speech conceived first by the Barons without any consideration, whether the Commons were the same Body of Men, at the time of executing the Chart of King Johns subjection, &c. as at that present.

The Fourth Argument Consider'd.

A From several *Records*, viz. 28. 32. 37. 42 and 48 *Hen. 3.* where-
in the word **Parliament** is to be found, as likewise the words
Communitas populi, and Communitas Regni are mentioned. As to
the word **Parliament** I answer, as before, that it came in use here
instead of **Magnum Concilium**, or **Commune Concilium & Col-**
loquium, about the middle of the Reign of *Henry III.* and in time
became of more frequent use than those words, and signifies no
more than **Colloquium**, a *Conference*; and doth no more point out
the constituent Members of it, than that word did; And so the
meaning of the **Parliamentum** is to be taken in the first *Record*,
B which is a *Writ* to the Sheriff of *Northampton-Shire*, that he should
not permit any one in his **Bailiwicke**, to use any *Liberties* belong-
ing to the *Crown*, unless they had first been used unto the time of the
Parliament of **Runnemede**, quod fuit inter Dominum Johannem Re-
gem, Patrem nostrum & Barones suos Anglie, which was between the
Lord King John and his Barons of England. What doth **Parlia-**
ment signifie here, but **Colloquium**? a Conference between the
King, and his Barons, not a word of the **Commons** in the *Record*,
C nor can the word **Parliament** imply them, and a short touch upon
the History of this Meeting, or Conference at **Runnemede**, puts it
out of Question, that the **Commons** were not there represented as
at this day, in our **Parliaments**.

The Barons having on the 24th of May, by the invitation and
contrivance of the rich Citizens, possessed themselves of London,
after they had placed their own Guards upon every Gate, and taken
D security of the Citizens, disposed of all things in the City as they
pleased, they sent their Letters to the Earls, Barons, and Knights
that really or seemingly adhered to the King, exhorting them with
threats that if they would not desert the Perjured King (as they cal-
led him) and faithfully close with them, in asserting their Liberties,
they would proceed against them as publick Enemies, beat down their
Castles, burn their Houses, and destroy their Warrens, Parks, and
Hot-yards. Upon this Command of the Barons, the greatest part
E of the Noblemen, and such as were with the King, left him, and
went to London, and confederated with the Barons.

The King seeing himself deserted, and fearing they would seize
his Castles, sent William Earl of Pembroke, and other faithful Mes-
sengers to them, to let them know he would grant them the Laws,
and Liberties they desired; and commanded them to appoint a day
and place for a meeting to prosecute this Affair. The Barons (im-
F mense gaudio recreati statuerunt Regi diem ut venirent contra eos ad
Colloquium in pratum inter Stanes & Windleshozes situm 15 die
Junii) being transported with great Joy appointed the King a day
to meet them at a Conference in a Meadow between Stanes and
Windsor, upon the 15th of June, and accordingly they met at the
day and place prefixt.

P. 33.

Cl. 28 Hen 3.
m. 12. Doml.

Angli autem
dum Parlia-
mentum paci-
ficum habuis-
sent cum Wal-
lensibus, &c.
Par. fol. 978
n. 10.
A short Nar-
rative of the
Meeting at
Runnemede

Par. fol. 254.
n. 40, 50.
The Barons
invited by the
Londoners to
take possession
of the City.
Ibid. fol. 225.
n. 10. 20.
They Com-
mand all the
Barons of
England to
come in to
them.
Sup. hoc Baro-
num Mandat-
um.
Ibid.
Most of them
leave the
King.

Ibid. n. 30.

P. 33.
Ibid. n. 50.

This

This was the **Parliament** at **Runnemedes** whither the *Barons* marched with their Army, and the *King* perceiving his Forces to be inferior to the Forces of the *Barons*, granted the *Laws* and *Liberties* as they there follow in *King John's Magna Charta*. I think nobody will say, that the **Commons** were represented in this Meeting, as at this day in **Parliament**: Nor indeed was it possible for any *Representatives* of the **Commons** to be there, for there was but One and Twenty days, between the 24th of *May*, when the *Barons* possessed themselves of the City of *London*, and the time of this Conference; In which One and Twenty days the *Barons* first secured the City, then sent their *Commands* to other *Barons* through *England* to come in, &c. who, after they received them, repaired to them at *London*, and then, when the *King* see himself deserted, he sent *Messengers* to them, and they appointed the 15th of *June* for the day of Meeting, all these **Transactions** passed one after another in this short space of time, so that it could no ways be, that **Writts** should issue, and the People **Elect** their *Representatives*, in so small time, as must needs **intervene**, the *King's* Message to them, to appoint a time and Place, and the time appointed.

Cl. 32 Hen. 3.
m. 13. Dors.

The Test of
this Writ is
16 Feb. apud
Westm. p. 34.

The Barons
the whole
Parliament.

Next he tells us of the *Outlawry* against *William de Hastings*, which was reversed, because it was not done according to the *Law* and *Custom* of the *Kingdom* (these words he hath left out) **coram Rege & toto Parlamento**, before the *King* and the whole **Parliament**. I believe he had better have let alone, harping upon the word *Parliament* in this *Record*, for 'tis a clear and unanswerable Argument against him, that the **Barons** in this Meeting were the **whole Parliament**: for he can never prove the **Commons** medled in such **Judgments**, or **Matters** of **Law**, or that it did belong to them, or ever pretended to it, in our **Ancient Parliaments**.

Ibid. m. 12.
Dors.

Not a word
of the **Com-**
mons.

And that the *Barons* were then the *Parliament*, there is another *Record* in the same year, of which this Gentleman hath given a scrap in his Margin, where the word **Parliament** is mentioned, and the Persons whereof it consisted, who were **Barons** only. The **Pope** had granted a large *Boon* to the *Church* of *Canterbury*, of one years profit of all the *Living*s in the *Patronage* of *Lay-men* when they should become void; The *King* writes to the *Bishop* of *Norwich*, that he should not permit them to be levied, or force the *Incumbents* to pay them, in this form. *Rex. W. Norwicens. Episcopo salutem, quia Magnates Terræ Nostræ noluerint in ultimo Parlamento nostro quod fuit apud London, &c. vobis mandamus prohibentes districte ne fructus exigatis prædictas, vel Ecclesiarum Rectores, ad conferendum dictum subsidium compelletis, donec cum prædictis magnatibus, sine quibus, super hoc nihil volumus attemptare, Colloquium habuerimus teratum. Teste Rege apud Sanctum Edmundum, 9 Mart.* The *King* to *William* *Bishop* of *Norwich* Greeting; Because the *Great Men* of our Land would not in our last **Parliament** at *London*, &c. Therefore We **Command**, and streightly forbid, that you do not exact the said **Profits**, nor compel the *Rectors* of *Churches* to pay them, until We have had another **Conference** or **Parliament** with the *Great Men* aforesaid, without whom we will attempt nothing in this matter.

In this Record we find the old word **Colloquium**, and the new word **Parliamentum**, expressive of one another, and of the same thing, and that the word **Parliament** did no more imply the **Commons** to be a constituent part of it, than **Colloquium** did. It is further to be noted concerning this Writ to the Bishop of *Norwich*, that the Test of it is but two and twenty days after the other, to the Sheriff of *Northamptonshire*, about *Hastingscote* Outlawry, from whence 'tis evident, 'twas the same **Parliament**, or **Colloquium** mentioned in both.

Colloquium & Parliamentum the same.

The next Record he useth to enforce this Argument is *Pat. 37 Hen. 3. m. 13.* which may be called an *Exemplification*, *Promulgation*, or *Declaration* of the *Excommunication*, or *Sentence* pronounced against the infringers of *Magna Charta*, on the third of May in *Westminster Hall*, 37 Hen. 3. 1253. under the *Seals* of the King and other Great Men. All our Author cites in this Argument, is part of the latter end, and that in two small parcels, *Rex Magnates & Communitas Populi protestantur Publicè* (against infringers of *Magna Charta*) *Contra consuetudines Regni antiquas & usitatas; in cuius rei testimonium*, and then tells who set their *Seals* to it.

Pat. 37 Hen. 3. m. 13.
The Date of this Record is the 13 May, 37 Hen. 3. apud Westm.
The whole Record is printed in his Appendix, p. 164.

The whole latter part of it, which he hath mangled and divided, runs thus, *Dominus Rex & prædicti Magnates omnes & Communitas Populi protestantur publicè in præsentia venerabilium Patrum B. Dei Gratia Cant. Archiepiscopi totius Angliæ Primat. nec non & Episcoporum omnium in eodem Colloquio existentium*, concerning any thing to be added or altered in *Magna Charta*, *quod in eâ nunquam consenserunt nec consentiunt sed de plano eis contradicunt. Præterea præfatus Dominus Rex in prolatione præfate sententiæ omnes Libertates & consuetudines regni sui antiquas & usitatas & dignitates & jura corone sue ore proprio specialiter sibi & Regno suo salvavit & excepit. In cuius rei memoriam, &c.*

Colloquium for Parliamentum.

To understand who were the **Community** of the People meant in this Record, we must have recourse again to *Mat. Paris*, who in this very year writes, that *In Quindenâ Pasche Mense Aprili, tota eadè Regio convocata Angliæ Nobilitas Convenit Londini de arduis Regni negotiis simul cum Rege tractatura, extiterunt igitur ibidem cum Comitibus & Baronibus Quamplurimis, Archiepiscopus Cantuariensis Bonifacius, Episcopi Angliæ fere omnes* (only the Arch-Bishop of York, and the Bishop of Chester were absent by reason of sickness.) The King acquaints them with his purpose to go and assist the *Christians* in the *Holy Land*, and requires a great Sum of Money, they fall into Contests about granting it, and the **Bishops** told the King, the **Liberties** of the Church were violated, and if he would reform those Errors, according to the *Tenor* of the **Great Charter** of **Liberties**, they would strain hard to serve him, which he promised them to do. Then after many Disputes in Fifteen days time, *Concessa est Regi decima pars proventuum ab Ecclesiâ per triennium, & à Militibus Scutagium illo anno, scilicet ad scutum tres Marcæ.*

King Henry in the Confirmation of *Magna Charta*, specially saveth and excepteth the Rights of the Crown.
Communitas Populi, 37 H. 3. Who?
Fol 865. n. 40.

Ibidem, n. 50.

Ibidem, fol. 866. lin. 1.

Ibidem, n. 20.

Notwithstanding this he summoned, *Milites sibi servitium Militare debentes*, that they should be ready with Horse and Arms at Portsmouth, eight days after Trinity, to pass beyond Sea. *Paris. fol. 868. n. 10. Ibidem, n. 30. 40, 50. No Commons. See the Form of Excommunication, n. 40, 50. The Constituent parts of the Colloquium, 37 H. 3. when Magna Charta was Confirmed.*

Observations from the preceding Record.

The Great Barons sometimes have been Summoned to Parliament, with the Addition of Chivalier.

Milites & Chivaliers proper and usual for Barons. Seld. Tit. hon. fol. 574, 575.

The Church granted the Tenth of their Revenue for three years, and the *Knights* or *Nobility* granted for that year *Scutage*, to wit three Marks of every *Scutum*, or *Knights Fee*. And then the *Arch-Bishop* and *Bishops*, in their *Pontificalibus*, and *Light Candles* in their hands, in the presence, and with the Assent of the King, *Richard Earl of Cornwall* his Brother, and several Earls there named, & *aliorum Optimatum Regni Angliæ*, and other Chief Men of the Kingdom of England, on the third of May, Excommunicated and Cursed, all those that from thenceforward should deprive the Church of her Right, and all those that should change, alter, or diminish the Liberties of the Church, and ancient Customs of the Kingdom, especially those granted in the Charter of the Common Liberties of England, and Charter of the Forest by the King of England. *Archiepiscopis, Episcopis, & ceteris Angliæ Prelatis, Comitibus Baronibus, Militibus & Libere Tenentibus, &c.* To the *Arch-Bishops, Bishops, and other Prelats of England, to the Earls, Barons, Knights, and Free Tenants, or Tenants in Military, or Knights-Service*, for they only were such as paid *Scutage*, which was at this time a kind of Composition with the King, for the confirming *Magna Charta*, and was never charged but upon *Knights Fees*, and these were such as held perhaps one narrow or scant *Knights Fee* only, or some part of a *Knights Fee*, as an half, 3d, 4th, 6th, 8th part, &c. who all paid a proportionable share of *Scutage* to the Great Lords, or Tenants in Capite, for the Lands they held of them in *Military Service*, which was paid first to the Great Lords, and by them paid to the King.

I shall observe from this Relation given by *Mat. Paris* of the *Colloquium*, or Conference mentioned in this Record, that it was all the Nobility of England met at London, to Treat with the King, and were summoned by his *Edict* or *Writ*; that particularly there were all the *Bishops* of England, with very many *Earls* and *Barons* at this Meeting; and lastly, that all the *Temporal Nobility*, or the *tota Angliæ Nobilitas* in the Grant of *Scutage* are called, *Milites, Knights, Military Knights*.

And from thence I collect, that besides the *Barones Majores*, that came to this Great Council, or Parliament, there were also the *Tenants in Capite*, according to the direction and Law for Summons in *King Johns Charter*, who were comprehended in the words, *tota Nobilitas, & Milites*; And that other Tenants that held of the Tenants in Capite by *Knights Service*, were bound by their Acts. For they all knew how many *Knights Fees* they held of the King in Capite, and if they had given away any to others, they held of them; as they did of the Crown, and answered a proportionable Rate toward this Tax, for the Fees, quantities, or parts of Fees, they held of them, about which there could be no mistake, after the *Scutage* was ascertain'd.

In so great an Assembly where all the Nobility of England were called together by the Kings Writ, and upon so great an Occasion and Solemnity, as confirming the Great Charter of Liberties, after such an extraordinary manner, it cannot be doubted, but besides the Barons, all the Tenants in Capite, both great and small, which were then

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then very *Numerous*, were present ; or at least most of them, from whence it is not difficult to tell our Author, who the *Communitas* were, after the *Bishops*, *Barons*, and *Magnates* ; they were no other then the *small Tenents in Capite*, who were all *summoned* by one General Writ, not *chosen*, and *sent* by the *People*, but *summoned* as the *great Barons*, though in *general*, as hath been before shewn, from King *Johns Magna Charta*. Again, *Dominus Rex & prædicti Magnates omnes, & Communitas Populi, &c.* that is the Lord the King, and all the foresaid *Great Men*, and *Community* of the *People* (to wit) the *Community* of the *Laity*, or the *Laity* in *general*, do protest publickly in the presence of the *venerable Fathers*, *B. Arch-Bishop* of *Canterbury*, and all the *Bishops* there present, &c. For here the *King*, *Great Men*, and *Community* of the *People*, or *Laity*, made their Protestation before the *Bishops*, and *Clergy*, and as I have proved before, the *Clergy* and *Laity* are often expressed, and distinguished, by *Clerus* and *Populus*. So that *Communitas populi* doth not here signifie, the *Community* of the *Commons*, but the *Community* or *body* of *Lait's* there present.

And in this sense *Clerus* and *Populus* are used in the 8th of this King, *Anno Dom. 1224. Convenerunt ad Colloquium in Octavis Sanctæ Trinitatis apud Northampton, Rex cum Archiepiscopis, Episcopis, Comitibus, Baronibus, & aliis multis, de Regni negotiis tractaturi* ; Sitting this *Parliament*, a Complaint was made to the King, that one of his *Justices* in the *Circuit* was carried Prisoner to *Bedford-Castle* ; At which the *King* being very angry, *Quæsit Concilium à Clero simul & Populo* : So in the *Chronicle* of *Gervase of Canterbury*, *Dux Henricus, una cum Rege Stephano, & quibusdam optimatibus Angliæ, venit Cantuariam, ubi à Conventu Christi, solemniprocessione, cum innumera Cleri & Populi multitudine susceptus est*. Duke Henry, (afterwards King Henry II.) with King Stephen, and certain *Great Men* of *England* came to *Canterbury*, where they were received by the *Monks*, or *Convent* of *Christ* in *Procession*, and an innumerable multitude of the *Clergy* and *People* ; And in another place in *Mat. Paris*, upon occasion of the *Popes* writing to King Henry II. for *Relief* of the *Holy Land*, 'tis said, *Convocato Clero Regni, ac populo, Convenerunt Londoniis apud Fontem Clericorum decimo Kalendas Aprilis, Rex cum universa Nobilitate Regni. Ubi dictus Rex, &c.* The *Clergy* and *People*, being called together or summoned, they met on the *Twenty third* of *March* at *London*, in the * *Monastery* at *Clerken-Well*, the *King* with the whole *Nobility* of the *Kingdom*. In the *Relation* of the *Coronation* of *King Edward II.* we meet with these passages.

Sire voulez vous Graunter & Garder, & per vostre serment Confermer au peuple de Angleterre, les leys & les Custumes à Eux grantees par le auciens Roys Dengleterre vous predecessors Droiturs & Devotz à Dieu, & nomement les loys, les Custumes, & les Franchisees graunte au Clergie, & au peuple, par le glorieus Roi Edward vostre predecessor. Respons. Jeo les Grant & Promette. Sire Garderez vous à Dieu & St. Eglise, & au Clergie & au peuple, pacs & accord en Dieu intirement solonc vostre poer. Respons. Jeo le Garderai. Sir, Will you grant, keep, and by your Oath confirm to the *People* of *England*, the *Laws* and the

The *Communitas populi* were Tenents in *Capite*, both great and small. Or the *Community* of the *Laity*. In that Book which is called the *Ancient Modus Tenendi Parl.* the Title of the third Chapter, which is concerning *Summons*, is *de Clero, or Clericis* ; and the Title of the Fourth Chapter, concerning the same matter, is *de Laicis*, which treats of the *Barons Summons*. *Communitas Populi*, What. *Paris*, Fol.

Col. 1375. l. 3. A. D. 1153.

Clerus & Populus, *Clergy* and *Laity* in general.

F. 143 lin. 5. A. D. 1185.

Populus, the *Laity*, or *Lay Nobility* only.

* Either in the *Monastery* of *St. Fohn's* of *Jerusalem*, (now called corruptly *St. Jones's*) or the other *Monastery* there on the *North-West* side of the *sometime Green*.

Rot. Claus. 1. Ed. 2. m. 10. Dors.

See more of
the words
Clerus and
Populus in the
Gloss.

Customs to them granted by the ancient Kings of England your Predecessors just and devout towards God, and namely the *Laws*, the *Customs*, and the *Franchises* granted to the *Clergy* and *People*, by the glorious King Edward your Predecessor; His answer was, I grant and promise, or confirm. Sir, Will you keep or preserve to God, and Holy Church, and to the *Clergy* and *People* peace and accord in God intirely according to your power; His answer was, I will keep and preserve them. What can here be meant by *Clerus* and *Populus*, but the *Clergy* and *Laity*? And therefore it is said in the Close of this Record, That *in veritatis Testimonium, tam Dominus Rex, quam predicti Comites, ad instantiam aliorum Magnatum, & populi, presenti scripto sigilla sua apposuerunt*; For the Testimony of the Truth of this Transaction, as well the Lord the King, as the aforesaid Earls, at the Instance and Request of other great Men, and the *Laity*, or Community of the *Laity*, put their Seals to the present Writing.

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There are only the words *Comites* and *Magnates* used in this Record, and why *Magnates* should be so comprehensive as 'tis there used, to include all *Earls*, *Barons*, and great *Tenents in Capite* in this very *Colloquium*, I see no great reason for it, but do think, without straining of the words, or putting a harsh sense upon them, the *Communitas populi* may be here understood of the body of the *Tenents in Capite*, that were no *Barons*, as contra-distinguished to the *Earls* and great *Men* of the highest Order; and besides that, they were all called by one General, and Common Writ. These words were used to denote the great appearance of them which were the inferior sort of the *Laity*, at this great Solemnity for asserting the *Common Liberties*, which they claimed; for the far greatest part of *Magna Charta*, concerned *Tenents in Military Service* only, and the *Liberties*, which our Ancient Historians tell were so mightily contended for, if seriously considered, were mainly the *Liberties* of Holy Church, by which, in most things, she pretended to be free from Subjection to a Temporal Prince; and the relaxation of the *Original Rigor* upon which *Knights*, or *Military Fees* were first given by the *Lords*, and accepted by the *Tenents*.

The greatest
part of the
Liberties
claimed in
Magna Charta,
concerned Mi-
litary Men.
Or the
Church.

See Glossar.
for *Magnates*.

See concern-
ing the Crea-
tions of Earls,
Barons, con-
cerning Mag-
nates, Bann-
rets, Knights,
Peers, &c.
Eljyngs modus
tenendi Parlia-
mentum, from
p. 27. to 46.
Autres Grands
Barons, Peers.

I know that *Magnates* very often imports, and is used for the great *Tenents in Capite*, that were no *Barons*, and perhaps the least *Tenents in Capite*; likewise for *Knights* also, and *Bannerets*, which though distinguished from the great *Barons* (who were ever created by some Ceremony or other, as all Orders of Nobility have been) yet had great Estates, and were possessed of, and held many *Knights Fees in Capite*, or were *Feudal Officers*, and therefore were summoned, as Peers, to the great *Barons*: And these, after the Commons were represented as at this day, in the times of Edw. 3. and Rich. 2. are in Parliament Rolls called *Autres Grantz*, or *Grandes*, *Autres Nobles*; which were *Barons-Peers*, called by the *Kings Writ* into the *Lords House* at pleasure, and omitted at pleasure.

A. Form of
Peace be-
tween the
King and Ba-
rons, after
the Battle of
Leves.

The next Record he produceth is stiled, a Form of Peace between the King and *Barons*, which was drawn up by Simon Montfort, Earl of Leicester, General of the Army of the *Barons*, and his Complices, when Henry the Third was their Prisoner, and Edward the First his Son, then Prince, was a Hostage, and Prisoner likewise,

likewise, on behalf of his Father, in order to an *Agreement* and *Peace* to be made between his *Father* and *Barons*. The *Battle of Lewes*, where King *Henry* was taken Prisoner, was Fought, *May* 19th. this year 1264. And this *Record* is dated at *London*, in *June* following after Midsummer-day, and the sum of it is, That *Montfort* and his *Faction* should name three Men, who should have *Authority* and *power* from the *King* to choose and name *Nine Counsellors*, of which, three should always be with the *King*; and he, by their *Advice*, should *Order* and *dispose* of the *Government* of his *Castles* and *Forts*, and all other *business* of the *Kingdom*, and also by their *Advice* should choose his *Judges*, *Chancellor*, *Treasurer*, and other *Officers*, great and small, either of the *Court*, or *Kingdom*; and when any of these were to be removed, or others chosen, it was to be done by the *Advice* of the first three *Electors*. And these three were always to be supplied by the *Barons* during *King Henry's* *Reign*, and such time of his Son *Edwards* *Reign*, when he should come to be *King*, as was then to be agreed on. And this *Agreement* or *Form of Peace* (as they called their own *Impositions* upon *King Henry*;) was to remain good, until certain *short Articles* made at *Lewes* were drawn up into *Form*, and *Ratified*. A *Brief Narrative* of some *Accidents* before, in, and after that *Battle*, will make this *Record* be better understood.

The year before the differences between the *King* and *Barons* about the *Provisions* made at *Oxford*, were by mutual consent, referred to the *King of France*, who gave *Sentence* for the *King* against the *Barons*, to which *Simon Montfort* and others would not submit; Whereupon many of the *Great Men* left *Montfort*; who was in those days a *Godly Man*, a *mighty seeming Saint*, and *wonderful Favourite* of the *Clergy* and *Religious*: from this time, until after the *Battle of Lewes*, his strength rather decreased than increased: *Prince Edward* in this *Battle* engaged the *Londoners*, and beating them, made too great a pursuit, so that before his return, the other part of the *Kings Army* was routed, and his *Father* taken Prisoner, and put into the *Priory of Lewes*; the *Castle* making a stout defence against the *Barons*, at which the *Prince* took courage, rallied his *Forces*, and designed to try the fortune of another *Battle*, which *Montfort* and his *Confederates* perceiving, they sent *Mediators* for *Peace*, promising, that on the next day they would effectually *Treat* of *Peace*, which was done, by the *Mediation* and *Intercourse* of the *Friers-Preachers*, and *Minors*, between both *Parties*, and things came to this issue; that on the morrow *Prince Edward*, and his *Cousin Henry* yielded themselves to *Simon Montfort*, and became *Hostages* for their *Fathers*, *Kings of England*, and *Almain*, upon hopes of *Peace*, and a deliberate *Treaty* about such things as might be found expedient for the quiet and safety of the *Nation*.

But when *Montfort* had *King Henry*, his *Brother Richard King* of the *Romans*, their *Sons*, *Edward* and *Henry*, and many others of the *Nobility Prisoners*, and carrying the *King* and *Prince* about with him, until he had taken in all the *strong Castles* and *Forts* of the *Land*, he grew more averse, and difficult to treat of the *Form of Peace* as it had been agreed at *Lewes*, making *King Richard* Prisoner in the *Tower*, and sending *Prince Edward* and his

The Battle of Lewes, May 19. 1264. 48 of Hen 3. Knighton col. 2450. n. 60. The unreasonable Impositions of Montfort and his Faction upon the King.

Mat. Paris, fol. 993. n. 10.

Ibidem, n. 20. Ibidem, 995. n. 10. fol. 998. n. 30. Fol. 994. n. 10. Prince Edward lost the Battle of Lewes by pursuing the Londoners too far. Ib. fol. 996. n. 10.

Ibid. This is the Mife, or short form of Peace mentioned in the Preamble of this Record. Ibid. n. 40.

Montfort, when he had the King and Prince Prisoners, grew insolent.

his Cousin Henry to Dover Castle, keeping Henry with him wherever he went.

Towards the latter end of the same Record.

* For Bigod see Pat. 48 H. 3. m. 9. and for him, and Bohun. Mat. Par. fol. 969. lin. 29. and fol. 995. lin. 436. for Marchensy. For Robert de Ver. Knighton. col. 2449. lin. 35. for the two Bishops. Godw. de præsul. for the Mayor and Citizens of Lond. Paris fol. 999. l. 4. Pat. 48 Hen. 3. m. 6. Dorset. in fine. That Convention to Parliament. Paris fol. 996. n. 50. Paris fol. 970. n. 40. Ibid.

No such Commons or Freeholders as at this day.

It was Prorogued to Oxford from the Sunday after Ascension day unto Barnabas day, Paris fol. 968. lin. 8. lin. 27.

In this condition was the King when Montfort and his Confederates, imposed upon him these unreasonable terms, calling them a *Form of Peace*, which was made, as 'tis there said, *de consensu, voluntate, & præcepto Domini Regis, nec non Prelatorum Baronum, ac etiam Communitatis tunc ibidem presentium*. The Prelats and Barons were such as sided with Montfort, and the Community, was the Body of the Tenents in Capite of the Faction there present; and without doubt others not of the Faction, who through fear came in, and complied, when the Rebels had the King, and his Son in their power; and the Witnesses to this Form of Peace, Richard Bishop of Lincoln, Hugh Bishop of Ely, Roger Earl of Norfolk, and Marshal of England, Robert de Aier Earl of Oxford, Humphrey de Bohun, William de Montchensy, and the Mayor of London, were all the Kings * great Enemies. A B

And whereas 'tis said these things were done in a Parliament at London, *Mense Junii An. Dom. 1264*. it could not be so, in our modern use, and understanding of the word; for as we have seen above, the King and Prince were both Prisoners, and his Brother Richard Earl of Cornwall, and King of Almain, and many others of the Nobility were Prisoners likewise. Roger Mortimer and several of the Nobility and great Men with him were in Arms against Montfort, and without doubt none of the Kings Party, or Friends were there, so that it must be a Parliament in the sense and general use of the word at that time. That is, a great Assembly, Convention, or Meeting of the Faction, and such as by threats and fear, were forced into a Compliance with them, and prudential moderate Men (as they call themselves) who stand still, while the Faction is uppermost, and then most commonly go along with them. C D

Such was that at Oxford when those deposing provisions were made (called *Provisiones Oxonienses*) in the 42 of this King Henry III. 1258. *Instante festo Sancti Barnabe Apostoli, Magnates & Nobiles Terræ ad Parliamentum quod Oxonie tenendum fuit properabant, præceperuntque omnibus qui eisdem servitium militare debuerant, quatenus cum ipsis venirent parati veluti corpora sua contra Hostiles insultus defensuri, quod & fecerunt palliantes talem adventum, eò quod in Walliam contra hostes regis viderentur collatis viribus profecturi*. The Feast of St. Bartholomew being at hand, the Great Men and Nobles of the Land made haste to the Parliament then to be holden at Oxford, and they commanded all which held of them in Knights or Military Service to go so prepared with them; as they were to defend their Bodies against the Attempts of their Enemies; which they did, disguising or covering their coming in such a manner, for that they pretended, or would seem to march with their joint Forces into Wales, against the Kings Enemies. E F

And that this Record is agreeable to the History we have used, and the very same our Author hath cited, and that which is here laid open, will appear from the preamble and date of it.

Hæc

Hec est forma pacis, a Domino Rege & Domino Edwardo filio suo, Prelatis & Proceribus omnibus cum Communitate totâ Regni Angliæ communiter & concorditer approbata. Videlicet quod quedam Ordinatio facta in Parlamento London habito circa festum Nativitatis Johannis Baptista proximè præterit. pro pace Regni conservandâ; quousque pax inter dictum Dominum Regem & Barones apud Lewes per formam cujusdem Mise prælocuta Compl. retur, duratura omnibus diebus prædicti Domini Regis & etiam temporibus Domini Edwardi, postquam in Regem fuerit assumptus, usque ad terminum quem ex nunc duxerit Moderand. firma maneat, stabilis & inconcussa, Dicta autem Ordinatio tale est.

Pat. 48 Hen. 3. m. 6. Dors. The Preamble to the form of Peace.

This is the *Form of Peace* generally and unanimously approved by the *Lord the King*, and the *Lord Edward* his Son, the *Prelats* and all the *Noblemen*, with the whole *Community* of the *Kingdom of England*; That is to say, that a certain *Ordinance* made in the Parliament held at *London* about the *Feast of the Nativity of John Baptist* last past, for conserving the *Peace* of the *Kingdom*, until a *Peace* between the said *Lord the King* and the *Barons* treated of at *Lewes*, according to the form of a *Mise* then made, should be compleated; to endure all the days of the aforesaid *King*, and also so long time of the *Lord Edward*, after he should be *King*, as should then be appointed. The said *Ordinance* is such or after this manner; of which there hath been an abstract given above. *Actum in Parlamento London mense Junii An. Dom. 1264.* done in the Parliament at *London* in the Month of *June*, in the year of our Lord, 1264. which must be at the latter end of *June* after *Midsummer day*.

The last *Record* he useth in this *Argument* is about the same *Form of Peace* mentioned in the former. The words he insists upon are these. *Cum super præteritis Guerrarum discriminibus in Regno Angliæ Subortis, quedam Ordinatio seu forma pacis de nostro Prælatorum * Baronum & totius Communitatis Regni prædicti unanimi voluntate & assensu, &c.*

Pat. 48 Hen. 3. m. 4. Dors. P. 37.

So much of this *Record* as relates to the present controversy, when fairly reported and compared with some passages in *History* not many years before (will in my judgment) sufficiently inform us what the *Communitas* was, and who were to be understood by it, in this, and the other *Records*.

* Here in this place he hath put in the word *Baronum*, to serve his purpose; 'tis not in the *Record*.

*Rex Angliæ S. de Monteforti Com. Leycestr' Gilbertus de Clare Com. Gloucestr. & Hertford. Johannes fil. Johannis. Johannes de Burgo senior, Willielmus de Monte-canisio, Henr. de Hastings, Gilbertus de Gant & ceteri Barones & Magnates Angliæ; Universis Christi fidelibus ad quos præsentis Literæ pervenerint, Salutem in Domino, Cum super præteritis Guerrarum discriminibus in Regno Angliæ subortis, quedam Ordinatio seu forma pacis, de nostro Prælatorum * & totius communitatis Regni prædicti unanimi voluntate & assensu provida deliberatione inita fuit, &c. In cujus rei Testimonium huic scripto nos Rex Angliæ, Com. Leicestr. Johannes, Johannes, Willielmus, Henricus & Gilbertus pro nobis & ceteris Baronibus & Communitate Regni Angliæ sigilla nostra apposuimus. Dat. apud Cantuariam die Jovis proxima post festum nativitatis B. Virginis An. Dom. 1264.*

* Note above how our Author hath added in this place the word *Baronum*, which is not in the *Record*. The Feast is Septem. 8.

John Fitz-
&c. all Ba-
rons.

This Feast is
on the 8th of
September.

See Dugd. Ba-
ron. Tome 1.
in their sever-
al names.

The Commu-
nity of Eng-
land, the Com-
munity of the
Barons.

Mat. Paris
Additam. fol.
217. lin. 6. n.
30.
A. D. 1258.
Hen. 3. 42.

The King of England, S. de Monfort Earl of Leycester, Gilbert de Clare Earl of Gloucester, and Hertford, John Fitz-John, John de Burgh Senior, William Montchensy, Hen. de Hastings, Gilbert de Gant, and other Barons and great Men of England, to all Christian people to whom these presents shall come, Greeting in the Lord, Whereas upon the by-past contentions of War, a certain Ordinance or Form of Peace, by provident deliberation was begun by the Will and Assent of Us, the Prelats and the whole Community of the Kingdom aforelaid, &c. In testimony of which thing, We the King of England, the Earls of Leycester and Gloucester, John, John, Henry, William and Gilbert, for our selves, and the other Barons, and the Community of the Kingdom of England, have put to our Seals. Dated at Canterbury on the Thursday next after the Feast of the Nativity of the Blessed Vigin, in the year of our Lord, 1264.

We find in this Record a Form of Peace begun by the Assent of the King, the Bishops, and whole Community of the Kingdom. And can our Author, or any Man say the Earls and great Barons gave not their consents to that Form of Peace, or were not present when it was made; and if they did, they must be included in, and were a part of this whole Community of the Kingdom. All these persons that with the King make themselves Parties to this Declaration to all Christian People, were Earls and Great Barons, and the very Heads of the Rebels, that now had the King and Prince, &c. Prisoners; and were the same persons that Sealed it for themselves, and the other Barons, and the Community of the Kingdom of England: which Community must be the Community of the Barons and Great Men, Tenents in Capite by Military Service, and no other. How can the Lords or Barons sign any thing for the Commons, as at this day understood: They did not then, nor now do Represent them; if what our Author says in his Appendix be true; so that he must either retract what he said there, or acknowledge this was the Community of the Barons, for whom they put to their Seals; and whether he retracts the first, or confesseth the Last, he gives over his Cause. But that they were the Community of the Barons and Great Men only intended in this and the other Records, will be clear from the following impregnable instance.

Adomat or Aymar de Valentiâ the Kings half Brother by his Mother, was Elect of Winchester, against whom the Barons were much incensed; and he fearing the Effects of their hatred, withdrew himself out of the Kingdom. The Great Men fearing he should go to Rome, and procure himself to be consecrated there, write to the Pope amongst other things, by four Messengers or Procurators which they sent to him, that he would by the fulness of his Power, remove him from the Administration of the Church of Winchester, especially seeing he was only elected and not consecrated.

The

The Title of which Letter is :

A *Litteræ Missæ a Communitate Angliæ Domino Papæ.* Letters sent from the Community of England to the Lord the Pope. And the Direction thus. *Sanctissimo in Christo Patri Alexandro divinâ providentiâ Sanctæ Universalis Ecclesiæ Summo Pontifici, Communitas Comitum, Procerum, Magnatum, aliorumque Regni Angliæ, cum subjectione debitâ, Pedum Oscula Beatorum, &c.*

The Letter from the Community of the Nobility to the Pope.

To the Most Holy Father in Christ, *Alexander* by Divine Providence **Pope**, or Great Bishop of the *Universal Church*, The Community of the *Earls, Noblemen, or Barons, Great Men and others of the Kingdom of England*, with due subjection we Kiss your blessed Feet, &c.

B And to put the matter beyond all doubt and exception, besides **Sir Earls**, and the **Justiciary of England**, I shall shew, that the other four were great Barons which put their several Seals to this Letter, *vice totius Communitatis*. Their names follow.

Mat. Paris ut supra, n. 20. The Letter signed by Earls and Barons only.

- C
1. *R. de Clare Gloverniæ & Herefordiæ.*
 2. *S. de Monteforti Legriæ.*
 3. *E. Bigod Mareschallus Angliæ.*
 4. *H. de Bohun Hertfordiæ & Essexiæ.*
 5. *W. Albemarle.*
 6. *J. de Placeto Warwici Comes, and H. Bigod Justiciarius Angliæ.*

1. **P. de Subaudia**, he was the Queens Uncle, and **Earl of Richmond**, and a great Baron.

Mat. Paris fol. 549. n. 30. Dugd. Baron fol. 49. col. 2.

D 2. **J. or Johannes fil. Galfredi**; he was a descendent from **Galfrid**, or **Geofry Fitz-Piers**, or **Pierre Earl of Essex**, and **Justiciary of England**, had his Estate and Barony, and was Grandfather to **John Fitz-John**.

Ibid. fol. 703. col. 2. 706. col. 2.

3. **Jacobus de Audel** or **Audley**, was a potent Baron, whose Seat was at **Aldithley** in **Staffordshire**.

Ibid. fol. 747. col. 1.

E 4. **Petrus de Monteforti** was a very great Baron; the head of his Barony was **Beldefent-Castle** in **Warwickshire**, and he was the greatest Rebel and Traytor in England, next to **Simon Montfort Earl of Leicester**. He Married **Alice** Daughter to **Henry**, and Sister to **James de Audley**, next above written.

Ibid. fol. 407. col. 1. 2. fol. 409. col. 1. 2. Eight of the eleven were of the same Stamp.

F As I have before, so let me again ask our Author, Did these eleven persons, all very great Earls and Barons, represent the whole Commons or Community of England, as at this day understood, or did they represent the Community of the Barons only, together with the Alios, the Milites, which held by Military Service of the great Barons, and the lesser Tenents in Capite, for the whole Community here intended must be one of them. Let him pitch upon which he will, he must yield his Assertion. For certainly these Great Earls, and Barons that sealed this Letter, *vice totius communitatis*,

Earls and Barons did not represent the Commons.

tatis, were not chosen nor sent by the Commons, to this Parliament or Meeting, nor were the Commons represented as at this day by them.

Auctar. Additam. fol. 222. n. 30.

Further the Title of the Popes Answer to these Letters, is very observable, and much to our purpose. *Literæ Papales missæ Communitati Angliæ, Responsivæ ad eorum petitiones præmissas ad curiam, &c.*

A

The Popes Letters in Answer to the Petitions of the Community of England sent before to our Court, &c.

Ibid.

Which are directed only, *Dilectis filiis, Nobilibus viris Consiliariis Clarissimi in Christo filii nostri illustris Regis Angliæ ac ceteris Proceribus & Magnatibus Regni Angliæ, Salutem & Apostolicam Benedictionem.*

B

To our beloved Sons the Noblemen Counsellors of our most dear Son in Christ the illustrious King of England, and the other Noble and Great Men of the Kingdom of England, Greeting and Apostolical Benediction.

The Commons, as at this day known, not to be found amongst the Community of England in old Historians.

How he will find any of our Commons as at this day known amongst this Community of England, I understand not. If he will say the Titles of these Letters, were only the Notes of Mat. Paris upon them, in the old MS. called the Book of St. Albans, or his *Addimenta*, and so not much to be regarded. I answer that in his time he was a very knowing Man, and is now incomparably the best Historian we have; and if these Titles were his Notes, (which cannot be denied) we are sure he truly noted and delivered to us the true sense and meaning of *Communitas Angliæ*, after he had perused the Popes Answer, who were only the *Nobiles viri, Regis Consilarii*, and the *Proceres & Magnates Angliæ*; that is *Baronagium* or *Baronagium Angliæ*, who, as Paris saith, wrote this very Letter to the Pope.

C

Fol. 978. lin. 10.

D

P. 76. b. lin. 4. 5.

And besides this Matter of Fact, there may be reason given, though I shall not lay any stress upon it, why the Earls and Barons or Baronage, were in those times called the *Communitas Regni*; for as Bracton hath it, who was a Judge in the time of Henry III. and Edward I. *Regnum ex Comitatibus & Baronibus constitutum dicitur*, the Kingdom is said to consist of Earldoms and Baronies. And in this sense it was that Cadmer says in *subsequenti Navitate Domini Christi Regnum Angliæ ad curiam Regis Lundoniæ pro more convenit*, and Paris often calls the Temporal Barons, *Regnum. Conveniente tandem Archiepiscopo Cantuariensi cum Episcopis & Magnatibus Regni Lundonii in præsentia Regis, tractatum est ibidem per tri-duum inter Regnum & Sacerdotium, &c.*

E

Hist. Novor. f. 105. lin. 3. Fol. 246. n. 50.

The Temporal Earls and Barons called Regnum.

Ibid. fol. 700. n. 40.

And in a Letter from the Abbats, and Priors to the Pope, amongst other things, they beseech him to abstain from giving Ecclesiastick Preferments to Strangers, especially such as were in the Patronage of the Nobility, by which means, say they, *provideat sanctitas vestra ut Regnum & Sacerdotium nullatenus sunt divisa*; and in very many places the like Expressions.

F

But

But further, to make good what I have said in the enforcing of this Instance, I shall produce a *Letter* of the Kings; upon *Record*, in answer to the *Pope*, concerning this very *Matter* and *Business*, about which the *Barons* wrote their *Letter* to him.

A Domino Pape Rex Angliæ Salutem. Cum reverentia & honore venientem ad regnum Angliæ & ad presentiam nostram religiosum virum fratrem Valastum Penitenciarum & Capellanium vestrum a vobis de Fratrum vestrorum consilio destinatum pro restitutione temporalium Episcopatus Winton Adomaro Fratri nostro integre facienda ea quæ decuit suscepimus reverentia & honore. Qui presentatis literis Apostolicis nobis & Baronibus ac Proceribus consiliariis nostris tanquam vir providus & circumspectus pacis ac concordie zelator cum multa benignitate & mansuetudine preces & precepta vestra coram nobis & prelatis regni nostri qui tunc nobiscum aderant, ac alia universitate Comitum Baronum & Procerum regni nostri plene ac diligenter exposuit ut decebat, commemorans & aperiens coram nobis beneficia Romanæ Ecclesiæ innumerabilia ab antiquis temporibus nobis & progenitoribus nostris impensa ac prerogativam multæ gratiæ amoris & favoris quibus nos & regnum nostrum etiam nunc prosequimini inter alios Reges & Principes orbis terræ. Deinde idem frater Velastus multis persuasionibus instantia & sollicitudine astruere & inducere diebus pluribus nitebatur. Nos consilium nostrum, ac universitatem predictam ut eundem Adomarum fratrem nostrum ad Episcopatum Winton plene restitui pateremur. Alioquin in gratia & favore seu amore vestri & Ecclesiæ Romanæ dispendium pateremur, eo quod si mandatis vestris in hac parte non obtemperaremus contra nos & regnum nostrum cogeremini provocari. Cum ad reddendam justiciam sitis, universis & singulis debitores. Verum licet reverendæ paternitatis vestræ parere beneplacitis totis desideriis affectemus & de tot beneficiis a munificentia vestra nobis & nostris totiens collatis regratiari quamplurimum teneamur. Tamen mandatum hujusmodi quod non solum personam nostram verum etiam universitatem regni nostri contingit non possumus absque gravi discrimine & subversione jurium & consuetudinum regni ejusdem & contra juramentum proprium adimplere, & quanquam hoc facere vellemus, predicta universitas in hac parte que unius consilii & voluntatis existit propter graves & notabiles excessus predicto fratri nostro objectos, id nullatenus sustineret, &c. Teste Rege apud Winton. xxiii. die Sept.

B

C

D

Claus. 43 Hen. 3. m. 4. Dori. The Kings Letter to the Pope, about Adomar Bishop of Winchester.

The University of Earls, Barons, and Great Men

The University of the Kingdom:

E Eodem modo scribitur Cardinalibus T. ut supra.

F To the Lord the Pope the King of England Health. We received with what Reverence and Honour became Us, the Religious Man Frier Valast your Penitentiary and Chaplain, sent to Us by the advice of your * Brethren for the full Restitution of the Temporalities of the Bishopricks of Winchester to Our Brother Adomar; who having presented the Apostolick Letters unto Us, and the Barons, and great Men Our Counsellors, as a Discreet and Circumspect Person, a lover of Peace, and Concord, with much Benignity and Mildness fully and diligently as he ought propounded your Requests and Precepts, to Us, the Prelats of Our Kingdom that were then with Us, and the other University of Earls, Barons, and great Men of Our Kingdom, remembring and opening unto Us the innumerable

* i. e. the Cardinals.

merable benefits of the *Roman* Church in ancient times conferred upon Us and Our Progenitors, and the great love and favour with which you do now honour and respect Us, and Our Kingdom. Furthermore, the same *Frier Velaſt* endeavoured many days together, with much perſuaſion and ſollicitude, to induce Us, and Our Council, and the *University aforeſaid*, that we would permit the ſame *Adomar* Our Brother fully to be reſtored to the Biſhoprick of *Wincheſter*, otherwiſe that We ſhould loſe the favour of you, and the *Roman* Church, in that if We obeyed not your Commands, you would be provoked againſt Us and Our Kingdom, when as for the doing of Juſtice you are a Debtor to every Man. But although We wholly deſire to obey the good Pleaſure of your Fatherhood, and are bound to be grateful, for ſo many favours beſtowed on Us, and Ours, yet We cannot obey this Command, which not only concerns Our Perſon, but alſo the *University* of Our Kingdom, without great danger, and the ſubverſion of the Laws and Cuſtoms of the ſame Kingdom, it alſo being contrary to Our Oath; and though we would do it, yet the *University aforeſaid*, being of one Mind and Reſolution, in this Matter, for the great and notable exceſſes or faults objected to our foreſaid Brother, will in no wiſe ſuffer it, &c. Witneſs the King at *Winton* 23 of *September*.

In the ſame manner the King wrote to the Cardinals.

Here we have *Frier Velaſt* preſenting the Popes Letter to the *King* and *Barons* and great Men of his Council, and propounding his Requeſts and Commands, to the Prelats of the Kingdom, and the other *University* of *Earls*, *Barons*, and great Men of the Kingdom, and ſolliciting the *King*, *Council*, and *University* aforeſaid, fully to reſtore *Adomar*, the Kings half Brother to the Biſhoprick of *Wincheſter*. To which the King Answers, That his Demands, not only concerned him, but alſo the *University* of the Kingdom, and that though he were willing to do it, yet the *University* of the Kingdom aforeſaid, would in no wiſe ſuffer it; Who therefore that well obſerves this Letter, and that in *Matthew Paris*, from the Barons to the Pope about the very ſame matter, and what hath been ſaid before, can doubt, whether the *University* of the Kingdom, were the ſame with the *University* of the *Earls*, *Barons*, and Great Men?

The *University* of the Kingdom.

The ſame with the *University* of *Earls* *Barons*, and Great Men.

P. 38, and 53.

Communitas Anglie, or the Community of *England*, were all the Orders of the Nobility put together.

And now to answer his Demand at the cloſe of this Argument, who the *Communitas* were after the words *Prelati*, *Barones*, & *Magnates*? I affirm they were all theſe put together, including alſo the leſſer *Tenents in Capite*, that were the *Communitas Anglie*, *tota Nobilitas Anglie*, *Univerſitas Baronagii*, *Univerſitas Regni*, &c. as will be more fully made out upon the conſideration of his third Obſervation.

The

The Fifth Argument Consider'd.

A **W**Hich is grounded upon a *Claim* by **P**etition of the **C**ommons, not *Protestation*, as he insinuates, That they had ever been a *Member* of the *Parliament*, or that *no Statute*, or *Law*, should be made without their *Assent*.

P. 39.

The *Petition* it self, with the *Kings* Answer, and what else is contained in the same Number in this Record follows.

Rot. Parl. 2.
Hen. 5. p. 2.
n. 10.

B *Item fuit a Remember que les Comens baillèrent a Roy nostre Seignour tressoverain en cest present Parlement un Petition dont le tenure ensuit de mote en mote.*

N. 10.

Also it is to be remembred that the **C**ommons delivered a *P*etition to the King our most *S*overaign Lord in this present *P*arliament, the *T*enor of which follows word for word.

Our Soverain Lord.

C **Y**our humble and trewe *L*ieges that ben come for the *C*omens of your *L*ond bysechin on to your ritz *W*issenesse. Tha soo as hit hath evere be thair *L*ibertie and *F*reedom, that thare should noo *S*tatute, noo *L*aw be made of las than they yaf thereto thair *A*ssent considering that the *C*omens of your *L*ond, the which that is, and ever hath be a *M*ember of your *P*arlement, been as well assentirs as *p*etitioners :
D that fro this time forward by compleint of the *C*omens of eny of mischief asking *R*emedy by mouth of their *S*peaker for the *C*omens, oather else by *P*etition written, that there nevere be noo *L*aw made there upon, and ingrossed as *S*tatut, and *L*aw, neither by additions, neither by *d*imintution, by noe manner of *t*erme, ne *t*erms, the which shold change the *S*entence, and the intent asked by the *S*peker mouth, or the *p*etitions by fore said yeven up in wryteing by the manner foresaid without assent. of
E the forsaid *C*omens, consydering our *S*overain Lord that it is not in nee wise the intent of your *C*omens, gif it be se that they aske you by *s*pekeing or by wryteing too things or three, or as many as theym list, but that evere it stoud yn the freedom of your hie *R*egalie to grant which of the too you lust, and to werune the *R*amanent.

At thistime it was the practice of the Comons to complain of Mischiefs, and ask Remedies, &c.

To deny.

F The *K*ing of his *G*race especial graunteth that fro henceforth, nothing be enacted to the *P*etition of his *C*omun, that be *c*ontrary of hir asking what by they shulde be bounde without thair *A*ssent, saving alwey to our *L*iege Lord his ** reall prerogatyve* to grant and deny what him lust of your *p*etitions and asking aforesaid.

* Royal.

Also the King having a great care of the *E*state of Holy Church, and the whole Kingdom, del advys & assent des *S*eynours *E*sprituelx & *T*emporels & a la *R*equest de ses *C*omens avant ditz, faitz certain *E*statutz *D*ecларacions & *O*rdinances. By advice and assent of the *L*ords *S*piritual and *T*emporal, and at the *r*equest of his *C*ommons afore-

Ibid. n. 10.

aforesaid, made certain Statutes, Declarations, and Ordinances, &c. which follow in the Record, N. 11. &c.

The Design of
that Petition.

The design of this Petition was not to claim the Antiquity of their existence, but their Right, that nothing might be Enacted without their Assent, contrary to their Intent and Liking; and to shew that it was never done since the Commons were a Third Estate, or as they say a *Member of Parliament*, and to prove that which no body denies, that the Assent of the Commons is now required to the making of Statutes and Laws he runs into a needless Discourse, and cites many Authorities since the 49 of *Hen. III.* that the Commons became a third Estate, which is what he further says upon this Argument. When as if he had attended to the *Kings Answer* to this Petition, and what immediately follows it in the very *same Number*, upon the *Parliament Roll* as 'tis here cited, he might have found the manner how the Commons concurred to the making of Laws at that time, without troubling the Reader with his Citations and Observations on them to no purpose.

P. 41.

P. 40.

But he takes only so much out of this Petition as he thinks serves his turn, and unhandfomly calls it a *Claim* and *Protestation* in page 39, and lays the great stress of his Argument upon the words, *but ever be*. What, were the Commons of England as now Represented by *Knights, Citizens, and Burgeesses* ever an essential constituent part of the Parliament, from eternity, before man was created? Or have they been so ever since *Adam*? Or ever since *England* was peopled? Or ever since the *Britains, Romans, and Saxons* inhabited this Island? Certainly there was a time when they began to be so represented. And that is the Question between us, which whether this Gentleman, or my self, be in the right, I leave to any impartial Judge.

*Rot. Parl. 11.
Ric. 2. part. 2.
artic. 11. Con-
tra De la
Poole, &c.*
The Parlia-
ment hath
been mistaken
in Periods,
and Compu-
tation of
Time.

And further, that Parliaments sometimes have been mistaken, in Computation of time, and periods when things began, and have made things of longer duration then they really were, there is this Instance, *Item, La ou la graunt Seigneurie, & la terre d'Irland, ejant & ount este, de Temps d'ount memorie Court, percelle del Corone Dangleterre, &c.*

'Tis here said that *Ireland* was parcel of the Crown of *England* time without memory, whereas it was Conquered, and annexed to the Crown of *England* in the time of *Henry the Second*, about 200 years before that time; and the memories of the Conquest, could not but be evident, and a thing whose beginning is known, cannot be said to be an immemorial thing. So when the Commons say they ever have been a Member of Parliament, 'tis not to be understood, they were so from the Original of Common, or great Councils, *Colloquiums*, or Parliaments, but that they had been so a great while, as *Ireland* had been parcel of the Crown of *England*.

Pet. p. 51.

In the Sixth Argument there is nothing worth Notice.

The Seventh Argument Considered.

WHICH he draws from the defect and loss of *Parliament Rolls* of *Henry the Third*, and *Edward the First*, and from the *Universal Silence* of all *Records*, and our *Ancient Historians* contemporary, and succeeding 49 *Hen. 3.* till our days.

His own words, p. 55.

I confess the *Parliament Rolls* of *Henry the Third*, and *Edward the First*, are wanting, so that we cannot be so well assured what was done in the *Parliaments* of those times, as we may be afterwards; yet there are *Writs of Summons* extant upon the *Close Rolls*, before, and in those times, by which the *Bishops*, *Earls*, and *Barons*, were summoned to *Parliaments* or *Great Councils*: and we have all the *Close Rolls* of *King John*, and *Henry the Third*, in the Dors of which anciently most of the *Writs of Summons* to the *Commons* in *Other Kings Reigns* are entered (few on the *Patent Rolls*, which we have likewise) 'Tis therefore very strange, if the *Commons* were represented by *Knights*, *Citizens*, and *Burgesses*, and summoned to *Parliament* as at this day, that there cannot be found any *Summons* to them upon these *Rolls*, as well as to the *Lords*. For the *Readers* satisfaction, I shall set down a *Writ of Summons* to the *Lords* in *King Johns* Reign, and another in *Henry III.*

The *Parliament Rolls* of *Hen. 3.* and *Edw. 1.* wanting.

There are *Writs of Summons* in those times.

Rex Episcopo Sarum, mandamus vobis rogantes quatenus omni occasione & dilatione postpositis, sicut nos & Honorem nostrum diligitis, sitis ad nos apud London die Dominica proxima ante Ascensionem Domini, nobiscum tractaturi de magnis & arduis negotiis nostris & communi Regni nostri utilitate; Quia super his, quæ à Rege Franciæ per nuntios nostros & suos nobis mandata sunt, unde per Dei Gratiam bonum speramus provenire, expedit habere Consilium & aliorum Magnatum terre nostre quos ad diem illum & locum fecimus convocari. Vos etiam ex parte nostrâ & vestrâ Abbates & Priores Conventuales totius Diæces. vestræ citari faciatis, ut ad Concilia prædicta vobiscum intersint, sicut diligitis nos & communem Regni utilitatem.

Cl. 6. *Johannis* m. 3. Dors. *Summons* to *Parliament* in the time of *King John.* *An. Dom.* 1209.

Teste, &c.

Rex venerabili in Christo Patri W. Eborum Archiepiscopo salutem, mandamus vobis, rogantes quatenus sicut nos & Honorem nostrum pariter & vestrum diligitis, & in fide quâ Nobis tenemini, omnibus aliis negotiis omissis, sitis ad nos apud London à die Sancti Hillarii, in quindecim dies ad tractandum nobiscum, una cum ceteris magnatibus nostris quos similiter fecimus convocari de arduis negotiis nostris statum nostrum, & totius Regni nostri specialiter tangentibus, & hoc nullatenus Omittatis. Teste Rege apud Windlesf. Decimo quarto die Decembr.

Claus. 26 *H.* 3. m. 13 Dors. *Summons* to *Parliament* in the time of *H.* 3. *An. Dom.* 1242.

Eodem modo scribitur omnibus *Episcopis* *Abbatibus* *Comitibus* & *Baronibus*.

See in the Answer to the Ninth Argument another Writ of Summons, 38 Hen. 3.

The whole Transactions of this Parliament, according to the date of the Writ, are to be found in *Mat. Paris*, fol. 581, n. 20, &c.

These are sufficient to shew there is not such an *Altum silentium*, so deep a silence of all *Records* as this Gentleman avers. And for our *Ancient Historians*, *Mat. Paris*, who wrote his *History* at the Command of Hen. 3. and died in the 43d year of his Reign, 1259. doth abound in remembring *General Councils*, *Colloquia*, or *Parliaments*, and things agitated in them; As also *William Rishanger*, a Monk of the same Abby, who continued his *History* at the command and charge likewise of the same King; of which I present the Reader with this *Collection*, and leave him to judge, whether in those days it is probable, the *Commons*, as at this day represented, were an Essential part of Great Councils, or Parliaments, and so end my Answer to this Argument.

A

B

Mat. Paris, fol. 209, n. 50.

A Nno Gratie 1204. in Crastino circumcissionis conveniunt ad Colloquium apud Oxonium Rex & Magnates Angliæ, ubi concessa sunt Regi Auxilia Militaria, de quolibet scuto duæ Marcæ & dimidium.

Ibidem, fol. 239, n. 40.

Interfuerunt Concilio apud Sanctum Albanum Galfridus filius Petri (he was Justiciary) & Episcopus Wintoniensis, cum Archiepiscopis & Episcopis & Magnatibus Regni.

C

Ibidem, fol. 249, n. 30.

Legatus grande Concilium apud Sanctum Paulum in Urbe Londinensi congregavit, ubi congregatis Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & aliis ad negotium interdicti spectantibus, proposuit, &c.

Ibidem, 310, n. 20.

Anno Domini 1221. Rex Henricus ad natale Domini apud Oxonium tenuit Curiam suam, Presentibus Comitibus & Baronibus Regni.

D

Ibidem, fol. 316, n. 50, 1223.

In Octavis Epiphaniæ Hen. Rex apud Londonias veniens cum Baronibus ad Colloquium.

Ibidem, fol. 320, n. 20.

Rex cum Archiepiscopis, Episcopis, Comitibus, Baronibus, & aliis multis conveniunt ad Colloquium in octavis Sanctæ Trinitatis apud Northampton de regni negotiis tractaturi: voluit enim Rex uti consilio Magnatum suorum de Terris transmarinis.

E

Ibidem, 367, n. 50.

Anno Domini 1231. 7 Calend. Febr. conveniunt ad Colloquium apud Westmonasterium, Rex cum Prælatibus & aliis Magnatibus Regni.

Ibidem, fol. 372, n. 40, 16 Hen. 3.

Anno Domini 1232. Nonas Martii ad Colloquium apud Westmonasterium ad vocationem Regis, Magnates Angliæ, tam Laici quam Prelati. When the King told them he was much Indebted, by reason of his Wars beyond Sea, and desired Ayd of them, Comes Cestriæ Ranulphus pro Magnatibus Regni loquens, Respondet; Quod Comites, Barones, & Milites, qui de eo tenebant in capite, cum ipso ibi erant corporaliter præsentibus & pecuniam

F

niam suam ita unanimiter effuderunt, quod inde pauperes omnes recesserunt, unde Regi *de jure* auxilium non debebant, & sic petitâ Licentiâ, Laici omnes recesserunt.

Apud Lanheiam in exaltatione Sanctæ Crucis, ad Colloquium coram Rege convenerunt Episcopi & aliarum Ecclesiarum Prælati, cum processibus Regni, concessa est Regi quadragesima pars Mobilium.

Ibid. fol. 377.
n. 50.
eodem Anno.

Convenerunt ad Colloquium 5 Id. Apr. Rex cum Comitibus & Baronibus, & Archiepiscopis, cum suis Suffraganeis.

Ibid. fol. 397.
n. 10. 1234.
18 H. 3.

1236. 3 Calend. Maii congregati sunt Magnates Angliæ Londini ad Colloquium de negotiis Regni tractaturi.

Ibid. fol. 429.
n. 30.

1237. Scripsit Rex omnibus Magnatibus suis, ut coram eo, & Domino Legato, in festo exaltationis Sanctæ crucis apud Eboracum convenirent, de Arduis Negotiis regnum contingentibus tractaturi.

Ibid. fol. 446.
n. 20. 21 H. 3.

Imminente Purificatione B. V. totius Angliæ Nobilitas tam Prelatorum quam Comitum, & Baronum secundum Regium præceptum est Londini congregata.

Ibid. fol. 580. 1. 6.
An. Dom. 1242.
26 H. 3.

Die Translationis B. Thomæ Martyris habitum est Magnum Concilium inter Regem & Magnates apud Wintoniam super multiplici Regni totius & maximè Ecclesiæ Desolatione.

Ibid. fol. 709.
n. 30. An. Dom.
1246. 30 H. 3.

In Crastino Purificationis Beatæ Mariæ Dominus Rex cum suis Magnatibus tractatum habens diligenter per plures dies concilium urgens, Dies protelavit.

Ibid. fol. 720.
n. 40. An. Dom.
1247. 31 H. 3.

Dominus Rex fussit omnem totius Regni Nobilitatem convocari, de statu istius tam manifestè periclitantis, &c. Prælatos autem maximè ad hoc Parliamentum vocavit arctius, quia videbat eos Rex tam frequenter depauperari per Papales exactiones.

Ibid. fol. 730. 1. 6.
1247. 31 H. 3.

In Octavis Purificationis B. V. edito Regio convocata convenit totius Regni Angliæ Nobilitas Londini, advenerunt igitur illuc, exceptâ Baronum, Militum, Nobilium, nec non & Abbatum, Priorum & Clericorum Multitudine copiosa, Novem Episcopi, cum totidem Comitibus, which was Prorogued to fifteen days after John Baptist.

Ibid. 743. n. 40.
1247. 31 H. 3.

In Quindenâ Paschæ quæ vulgariter Pokeday appellatur, convenerunt Londini omnes Mobiles Angliæ, tam viri Ecclesiastici quam Seculares, ita quod nunquam tam Populosa Multitudo ibi antea visa fuerit congregata: Tandem in hoc convenerunt communiter, ut Regi renuntiaretur ex parte Universitatis quod negotium, &c.

Ibid. 904 n. 40.
1255. 39 H. 3.

Et post Diem Martis quæ vulgariter Pokeday appellatur factum est Parliamentum Londini.

Ibid. fol. 963.
n. 40. An. Dom.
1258. 42 H. 3.
P. 55.

These several Parliaments, or Great Councils, besides those which are more particularly taken notice of in this Answer, were held in the Reigns of King John, and Henry the Third, and therefore not such a silence of Parliaments in the Historians of those times, as our

Author would have the World believe; and from these, many hints may be taken, and observations made, which are repugnant to his Errors, and if he can, let him pick out any Commons in these Great Councils, as at this day chosen and represented.

His eighth Argument hath nothing worthy a serious Consideration.

The ninth Argument considered.

P. 71.

Which is from the Comparison of the antient *Generale Concilium*, or Parliament of Ireland, in Anno 38 Hen. 3. with ours in England, wherein there were Citizens and Burgesses, as our Author thinks, which was eleven year before the pretended beginning of the Commons here.

Rot. Pat.
38 Hen. 3. m. 4.
Mr. Petits Appendix p. 166.

He grounds this Argument upon the two following Records; *Rex venerabilibus in Christo patribus, omnibus Archiepiscopis, Episcopis, & Dilectis sibi in Christo, Abbatibus, & Prioribus, & dilectis fidelibus suis universis Comitibus, Baronibus, Militibus, & aliis fidelibus suis Hibernia, salutem. Mittimus Dilectum & fidelem nostrum J. Filium Galfridi Justiciarium nostrum Hibernia, ad partes Hibernia, ad exponendum vobis statum nostrum & terræ nostræ Vasconia, & pericula nobis imminencia, & ad tractandum vobiscum super Auxilium nobis faciendum contra Regem Castell. Qui dictam terram nostram Vascon. in manu forti in Quindenam Paschæ primo futuram, hostiliter est ingressurus, vobis mandantes quod eidem Justituario nostro in iis quæ vobis ex parte nostra super prædicto auxilio perquirendo intimabit fidem adhibeatis. In cujus, &c. T. Alianora Regina nostra, & Richardo Comite Cornubia apud Westm. 2^o Die Febr. per Reginam.*

Ibid. & Mr. Petits Appendix, p. 167.

Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus, liberis Hominibus, Civibus, Burgensibus, & omnibus aliis fidelibus suis terræ suæ Hibernia salutem. Mittimus fratrem Nicholaum de Sancto Neoto, fratrem Hospital. Sancti Johannis Jerusalem in Anglia ad partes Hibernia ad Exponendum vobis una cum J. Filio Galfridi Justiciario nostro Hibernia, statum nostrum & terræ nostræ Vascon. & pericula nobis imminencia de hostili adventu Regis Castell. Qui nullo jure sed potentia sua confisus terram nostram Vascon. per ipsius fortitudinem à manibus nostris auferre & à Dominio Regni Angliæ segregare proponit universitatem vestram quantum possumus affectione Rogantes quatinus nos & Jura nostra taliter indefensa non deserentes nobis in tanto periculo constitutis Quantumcunque in mundo poteritis de Gente & pecunia ad prædictæ terræ nostræ Defensionem, quam prædictus Rex in manu forti in Estate proximè futura hostiliter est ingressurus, subveniatis, quod in vestrum Honorem vertetur sempiternum, cum ex contrario hujus negotii eventu non tantum nobis, set singulis Regni nostri & terræ nostræ Hibernia ——— & Rerum Dampnum immineat periculosum. Hiis nostris Angustiis taliter Compatientes, quod nos & heredes nostri, vobis & heredibus vestris sumus non immerito obligati,

obligati, in cujus, &c. Teste A. Regina & R. Com. Cornub. apud Windsor 17^o Die Febr.

Per Reginam.

A The King to the venerable Fathers in Christ, all the Archbishops and Bishops, and to his Beloved in Christ, the Abbats and Priors, and to his Beloved Feudataries, the Earls, Barons, Knights, and other his Liege-men, or Feudataries of *Ireland*, Health; We send our Beloved and Faithful *J. Fitz-Geofry* our Justiciary of *Ireland*, to the parts of *Ireland*, to expound to you our State, and the State of our Land of *Gascony*, and the Dangers impending on us; and to treat with you about an Aid to be made to us against the King of *Castile*, who within fifteen days of *Easter* next coming, intends, with Arms, to invade our Country of *Gascony*. Requiring you to believe, what he shall say unto you from us, concerning the said Aid. Witness *Alianor* our Queen, and *Richard* Earl of *Cornwall*, at *Westminster* the second day of *February*.

By the Queen.

C The King to the Archbishops, Bishops, Abbats, Priors, Earls, Barons, Knights, Free-men, **Citizens** and **Burgessees**, and all other his Liege-men or Feudataries of his Kingdom of *Ireland*, Health: We send Frier *Nicholas* of *St. Neots* (or *Needs*) a Frier of the Hospital of *St. John's* of *Jerusalem* in *England*, to the parts of *Ireland*, to expound to you, together with *J. Fitz-Geofry* our Justice of *Ireland*, our Condition and the State of our Country of *Gascony*, and the Danger we are in, by reason of the Expectation of an Hostile Invasion by the King of *Castile*, who trusting only to his Power and Strength, without Right, Designs to take it from us, and sever it from the Dominion of *England*; with what affection we are able, we require your University that you would not Desert us in so great Danger, and leave our Rights without Defence, and that you would give us the utmost assistance you can, in Men and Money, for the Defence of our said Country, that so it may redound to your eternal Honor, so that we and our Heirs, may worthily be obliged to you and your Heirs; witness *Alianor* the Queen, and *Richard* Earl of *Conwall*, at *Windsor* the seventeenth day of *February*.

By the Queen.

E From these Records, but especially the last, he would prove that the Commons, as now represented by Knights, Citizens, and Burgessees, were called to Parliament in the 38 of *Henry* the Third in *Ireland*, and consequently in *England*, because the whole Platform of the *Irish* Government was sent from hence. It may justly be doubted whether either Justice *Fitz-Geofrey* or Frier *Nicholas* had Commission to call a Parliament; it doth not appear they had by these Records; or whether this Aid required, was a Tax, or Free Contribution, given and granted by several great Meetings or Conventions of the *Irish* in several distinct places, for after that manner they sometimes met, for the Transactions of publick Business, as is evident from Record, about twenty years after this Employment of Father *Nicholas*. *Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus & omnibus aliis Anglicis de*

Doubtful whether these Conventions of the *Irish* were Parliaments.

Rot. Pat. 5.
Ed. 1. M. 13.
M. Petic. p. 74.

Terra Hibernia, &c. vobis mandamus quod ad certos Dies quos ad hoc provideritis, videlicet circa festum Nativitatis Beate Mariæ Virginis, in aliquibus locis oportunitis conveniatis & diligenter inter vos Tractatum habeatis, utrum fuerit præjudicio vestri, & libertatum & consuetudinum vestrarum, &c. The King to the Archbishops, Bishops, Abbats, Priors, Barons, Knights, and all English in the Kingdom of Ireland, We Command you, that on certain days which you shall choose, about the Feast of the Nativity of the Virgin Mary, you meet in some convenient places, and treat diligently amongst your selves, whether it will be to the prejudice of you, your Liberties and Customs, that the natural *Irish* enjoy the same Laws and Customs in common with you, &c.

A

Though perhaps this might be a sufficient Answer, yet I insist not upon it, but apply my self to examine the Records themselves, and give the History of the Affair they mention. The King at this time was in *Gascony*, and in great want of Men and Money to carry on the War against the Rebellious *Gascoines*, and the King of *Castile* who assisted them. He wrote to the Queen and his Brother *Richard* Earl of *Cornwall*, (who were Regents in his absence) to call a Parliament on the morrow after *St. Hillary*, but before they received the Kings Letters, the time was too short for their meeting then, and therefore they summoned it to meet at *Westminster*, on the Quindene of that Feast which was on the 27th of *Jan.* but five or six days before the Date of the first Record; And did meet accordingly at that time and place; it may very well be believed that the Queen and Earl did perceive this meeting would prove insuccessful, when they wrote the first Letter in the Kings name, by Justice *Fitz-Geofrey*, to the Archbishops, Bishops, Abbats, Priors, Earls, Barons, Knights and Liegemen, or Feudataries of *Ireland* only, but when they saw the Baronage in Heats and Animosities amongst themselves, and against the King, and that their meeting ended without contributing to the Kings necessities; fifteen days after they reinforce the first Letter, with a second by Frier *Nicholas*, and do then further write to the Citizens and Burgeses, that they might thereby procure a greater Sum, which was the only Design of writing to them; for if the Men and Money were to be Raised and sent by Authority of Parliament, both the Letters or Writs were directed to such Persons as could sufficiently make a Parliament, or the Capital Justice of *Ireland*, was a very ignorant Person, and did not know the constituent parts of a Parliament, (which is hardly to be supposed;) but if he did know the constituent parts of a Parliament, the Assembly, according to the Direction of the first Record, without Citizens and Burgeses, was a Parliament, and so his Argument from this Record, is of small Consideration.

B

C

D

E

F

The Reason of calling a Parliament,
38 Hen. 3.
A. D. 1234.
Paris; Additament, fol. 189.
n. 50.

Ibid. Hist.
fol. 881. n. 30.

The Reason why the *Irish* Citizens and Burgeses were convened.

Claus. 38 H. 3.
M. 14. Dorsete
Magnatibus vocatis ad Concilium.
Note *Mat. Paris* calls this a Parliament.

But let us see what the *English* Parliament was *de facto*, which was summoned to meet about the same Business of *Gascony*, but five or six days before the Date of the first Record; and follow matter of fact, rather than an Argument by comparison. The Summons to this Parliament or Council, are extant on the close Roll of this year.

Rex Bonifacio Cantuariensi Archiepiscopo salutem, cum quadam ardua & urgentia negotia statum nostrum & Regni nostri tangentia habeamus

A *mus vobis communicanda quæ sine consilio vestro & aliorum Magnatum nostrorum nolumus expedire, vobis mandamus in fide qua nobis Tenemini firmiter injungentes, quatinus sicut nos & honorem nostrum diligitis nullatenus omittatis quin à die Sancti Hillarii proximo futuro in quindecim dies sitis apud Westminster coram Regina nostra, & Richardo comite Cornubiæ fratre nostro comorantibus in Anglia, & aliis, quos ad eundem diem missuri sumus de consilio nostro Vasconie audituri Bene-placitum nostrum & voluntatem, & cum præfato Concilio nostro super prædictis negotiis tractaturi, nec retardetis adventum vestrum, quin sitis ad dictum diem tempestive Testibus A. Regina & R. comite Cornubiæ apud Westminster 27. die December.*

B The King to Boniface Archbishop of Canterbury, Greeting, Whereas we have certain arduous and urgent matters touching us and the State of our Kingdom to be communicated to you, which without the advice of you and our other great men, we would not transact. We command, firmly injoyning you, by the Allegiance in which you are bound to us, as you love us and our Honour, that you will in no wise omit to be at Westminster fifteen days after St. Hillary next coming, before our Queen and Richard Earl of Cornwall our Brother, remaining in England, and others of our Council of Gascony, which we shall send at the same day, to hear our good will and pleasure, and with our foresaid Council to treat about the matters aforesaid: and you are to be there in good time, on the day appointed; Witness Alianor the Queen, and Richard Earl of Cornwall at Westminster the 27. of December.

Summons to the Parliament, 38 H. 3.

D Of this very Council *Mat. Paris* says, *Anno Dom. 1254. Sexto Kalendas Februarii die videlicet Sancti Juliani convenissent universi fere Angliæ Magnates, viz. Comes Mireschallus R. Bigod, Gilbertusque de Segrave, speciales Domini Regis nuntii, ad Parlamentum venientes, ex parte ejus propositum suum præcordiale, universitati Angliæ nunciantes, adierant autem illuc comes Richardus frater Domini Regis Scilicet comes Cornubiæ, cum Domina Regina, &c.* In the year of our Lord 1254. (which was 38 of Henry the Third, on the sixth of the Calends of February, that is to say, on St. Julian's day, almost all the Great men of England came together, and to the Parliament, where the Earl Marshal Roger Bigod, and Gilbert de Segrave, the Special Messengers from the King, declared his hearty Intentions and Requests to the University of England; here were present Richard Earl of Cornwall the Kings Brother, with the Queen: Now I shall shew what the Great Men and University of England were, that constituted this Parliament, and leave it to the Judgment of the Reader, whether the Commons as now, or whether any Citizens or Burgeses were summoned to it. Of this Parliament *Paris* says, (after he had told in what Heats, and of what Temper the People were) *Sic igitur solutum est concilium casum & inane;* so this Council did nothing. And then refers to Earl Richard's Letters, wherein he gave an account to the King, of the Issue of this Parliament, in his Book of Additaments, which are in these words.

Fol. 881. n. 30.

The Constituent parts of that Parliament.

Ib. f. 882. n. 10.

F *Domino Regi Angliæ, &c. Regina & Richardus Comes Cornubiæ Salutem. Recepimus literas vestras ad Natale Domini proxime præteritum*

Libro Additament. fol. 189. n. 50

Who were the
Constituent
parts of the
Parliament.
38 of Hen. 3.
Note the sixth
of the Calends
of Febr. the
Feast of St. Fu-
lian and the
Quindene of
St. Hillary,
were all the
same day, that
is, the 27th. of
January.

The Citizens
and Burgeses
in Ireland, came
from such Ci-
ties and Burghs
as held of the
King.

Claus. 21. H. 3.
M. 22. dorso.

*teritum, quod in Crastino Sancti Hillarii Convocaremus Archiepis-
copos, Episcopos, Abbates, Priores, Comites, & Barones Regni An-
glia, ad ostendendum eis statum vestrum, & adventum Regis Castellæ
in Vasconiam contra vos. Et quia Brevitas Temporis non patiebatur,
quod dicti Magnates, ad dictam diem possent convenire, vocavimus
eisdem apud Westmonasterium in Quindena dicti Festi Sancti Hillarii.
Quibus Congregatis, & expositis, eis, adventu dicti Regis, & statu
vestro Responsum Recipimus, &c. To the King of England, &c. The
Queen and Richard Earl of Cornwall Health. We received your Let-
ters at Christmas last past, that we should Summon the Archbishops,
Bishops, Abbats, Priors, Earls, and Barons of the Kingdom of En-
gland, to shew unto them your Condition, and the coming of the
King of Castile into Gascony against you, and because of the short-
ness of time, the said Great Men could not meet at that day; we
summoned them to meet at Westminster in the Quindene of the said
Feast of St. Hillary: To whom when they were come together, ha-
ving declared the expected Invasion of the said King, and your Con-
dition, we received Answer, &c. De facto, these were the Con-
stituent parts of the English Parliament, that treated about the
very same Matters which were to be propounded to the Irish.*

If any man asks a reason why the Directions of the last Irish Re-
cord were so general? I answer, it was to take in all the Tenents in
Capite, and all others that had any special Priviledges from, and
dependence upon the King, to make the Aid and Assistance of Men
and Money the greater, since the English Parliament was broken
up, without doing any thing for him; and that the Cities and
Burghs were really the Kings Cities and Burghs, as his Demeasns,
he being Lord of them, or so reputed and esteemed, from the Pri-
viledges they injoyed from, or under him, by Charter or other-
wise.

To Illustrate at least, if not fully to evince this Point, I shall pro-
duce an Irish Record or two concerning the like matter, about se-
venteen years before the Date of these. *Rex venerabilibus in Christo
Patribus universis Dei Gratia Archiepiscopis, Episcopis, Abbatibus, &
Prioribus, & dilectis, & fidelibus suis Comitibus Baronibus Militibus
& liberis hominibus in Hibernia constitutis ad quos presentes littere
pervenerint Salutem. Cum propter maritagium dilectæ Sororis nostre
Isabelle quam maritavimus Domino Imperatori sicut satis audistis non
solum eidem Imperatori set & Domino Pape & aliis propter diversa
regni nostri negotia in magna teneamur summa pecuniæ & ultra modum
debitis oneremur adhuc licet fideles nostri de regno nostro Angliæ ad hoc
efficax nobis consilium impenderint Universitatem vestram rogandam
duximus cum affectu quatinus cum speremus de liberalitate vestra quod
in urgenti necessitate nostra consimilem gratiam nobis facere debeat nec
facile sit nobis sine adminiculo vestro à tam gravium onere debitorum li-
berari juxta fiduciam quam de vobis reportamus ita liberaliter & effi-
caciter nos juvare velitis ad liberalitatem vestram prædictam. Cum per
Justiciarium nostrum Hiberniæ fueritis inde ex parte nostrâ requisiti
quod non solum ex impenso nobis auxilio possitis ab aliis merito commen-
dari set exinde debitores nos constituatis ad perpetuas gratiarum
actiones.*

A The King to the venerable Fathers in Christ, the Archbishops, Bishops, Abbots and Priors, and to the Earls, Barons, Knights and Free-men of *Ireland*, Greeting, whereas for the Marriage of our beloved Sister *Isabel* to the Emperor, and for certain other Matters concerning our Kingdom, we are much indebted to the said Emperor, the Pope, and others, although our Feudatories of *England* have given us considerable assistance; yet we think fit earnestly to desire your University; whereas in our urgent necessity you ought to be liberal, and afford us the same bounty. Neither is it easie for us, without your help, to be freed from so great a Burthen of Debts. And therefore according to the Confidence we have in you, we expect a free Benevolence when you shall be thereto required by our Justice of *Ireland*, that you may not only be commended by others, but thereby have us your Debtor for perpetual thanks.

B *Rex omnibus probis hominibus suis de Civitatibus Burgis & Dominicis suis in Hibernia, salutem. Sciatis quod dedimus in mandatis dilecto & fideli nostro M. filio Geroldi Justiciario nostro Hibernie quod pro diversis debitis nostris quibus sumus plurimum onerati acquietandis tallagium super vos assideri faciat ad opus nostrum sicut Civitates Burgos & Dominica nostra in regno nostro talliari fecimus & inde vobis mandamus quod eidem Justiciario nostro ad hoc intendentes sitis & respondentes; In cujus rei Testimonium, &c.*

Ibidem.

The Cities, Burghs, and Kings Demeasns in *Ireland* Talliased.

D The King to all his good men of Cities, Burghs, and his Demeasns in *Ireland*, Greeting, Know ye that we have commanded *M. Fitz-Gerold* our Justice of *Ireland*, that for the discharging of our great Debts, he sets a Tallage upon you for our use, as we have caused our Cities, Burghs, and Demeasns in our * Kingdom to be Talliated. And herein we command you to comply with, and be obedient to our Justiciary; In witness whereof, &c.

* i. e. *England*. for *Ireland* was then but a Dominion, and the Kings Title. but *Dominus Hibernie*.

E Certainly there was no difference between the Cities and Burghs, in the 21 of *Henry* the Third, and the 38 of *Henry* the Third, they were all *Civitates & Burghi Dominici*, the Kings Cities and Burghs, only here they were Talliated by the Justiciary; and in the 38th he urged them to a Free-Gift or Benevolence, as in this year he did the Archbishops, Bishops, Earls, Barons, Knights and Free-men: And from thence it can never be proved, that the Cities and Burghs in *Ireland* were then Represented by Citizens and Burgeses, and after the same manner as the Cities and Burghs in *England* now are.

Not to be proved from the *Irish* Records, that the Citizens and Burgeses were Represented in Parliament in the time of *Hien* 3.

The

P. 78.

The Last, or (as he calls it) a Supplemental Argument Considered.

IT is grounded upon the Parliaments of *France, Spain, Portugal, Denmark, Sweden, and Scotland*, having had in them, from time immemorable, both *de Jure*, and *de Facto*, Delegates and Representatives from Cities, great Towns or Boroughs. It would take up too much time, and swell the Answer to, or Consideration of this Argument, to an unnecessary bulk, to treat here of the constituent parts of these Foreign Councils, Conventions, Parliaments, Diets, &c. at first, and very antiently they were all the same; Emperors or Kings with their Earls, Barons, Bishops and great Officers, as is evident from all the old *German and French* Authors. And since Cities sent Députies in *Germany and Italy*, they were only from Imperial Cities, *Berold. Discurs. Polit. p. 126.* but of these he saith little himself.

P. 82.

Stat. Will. Reg.
fol. 2. c. 7.
They are Mr.
P's own words

Seeing therefore he applyeth himself in the management of this Argument, almost altogether to the Constitution of the Kingdom of *Scotland*: I shall follow him, and discover what a wonderful man he is, in the knowledge of the *Scottish* Laws and Antiquities. The first Authority he useth, is an Assize or Statute made in the time of King *William*, Sir-named *Leo*, who began his Reign *A. D. 1105.* in the Fifth of our *Henry* the First, and reigned nine and forty years, and cites the Statutes of the same King, published by Sir *John Skene*, made at *Perth*, where several Laws were ordained, to the observance whereof, *Episcopi, Abbates, Comites, Barones, Thani, & tota Communitas Regni tenere firmiter Juraverunt.*

P. 83.

Stat. Alex. 2.
fol. 22. c. 2.

P. 83.

His next and only further Instance which he useth, is the Reign of King *Alexander* the Second, who began it *A. D. 1214.* which was the sixteenth year of our King *John*, and reigned five and thirty years, so as he died 38 *Hen. 3.* from these words, *Statuit Dominus Rex Alexander, Illustris Rex Scotiae, de Concilio & assensu venerabilium patrum Episcoporum, Abbatum, Comitum, Baronum, ac proborum hominum suorum Scotiae*: And then this Writer adds, and what the *Communitas Regni* in King *William's* Statutes, and the *Probi homines* in King *Alexander's* were, the League made between the *French* King, and the Crown of *Scotland*, *Anno 28 Ed. 1.* clearly shews, and from a Roll in the Tower of *London* of the same date, sayes, it was ratified and confirmed in their Parliament, *per Johannem de Balliolo* then King, *ac Praelatos & Nobiles, & Universitates, & Communitates Civitatum, & Villarum dicti Regni Scotiae*; and the constant practice ever since hath been, that the Cities and Burghs have sent their Proxies or Representatives to the Parliaments of that Kingdom.

The meaning
of *Communitas
Regni & probi
homines* in *Scot-*
land.
Stat. Gulielm.
R. fol. 1.

This being what he hath said concerning *Scotland*, I shall instruct him out of his own Author Sir *John Skene*, and other printed Acts of Parliament and Statutes of *Scotland*, and teach him what is meant by the words *Communitas Regni, & probi homines sui*: The Title to the Statutes of King *William* called *Leo* runs thus; *Statuta five Assise Regis Willielmi, Regis Scotiae, facta apud Perth, coram Episcopis, Abbatibus,*

A *bus, Baronibus, & Aliis probis Hominibus terræ suæ. The Statutes or Assizes of William King of Scotland, made at Perth, before the Bishops, Abbots, Barons, and other Good men of his Land. Rex Willielmus Statuit apud Sconam per commune concilium Regni sui, Anno Dom. 1209. Rex Willielmus Statuit apud Sconam de communi concilio & Deliberatione Prelatorum, Comitum, Baronum, ac Libere-tenentium, quod Ecclesia Scoticana, & Sancta Religio, & Univerſus Clerus, in ſuis Juribus, libertatibus & Privilegiis omnibus, manu teneatur in quiete, pace, & ſemper ſub preſeſſione Regia.*

Ibid. fol. 6. c. 9.
Ibid. f. 15 c. 32.

King William ordained at Scone by the Common-Council, and Deliberation of the Prelates, Earls, Barons and Free-holders, that Holy Scottiſh Church, and Holy Religion, and the whole Clergy, ſhould be maintained in all their Rights, Liberties, and Priviledges, in Quiet and Peace, always under the Kings Protection.

B *Item, Statuit quod Comites, Barones & Libere-tenentes Regni, conſervent pacem in ſervis ſuis; & quod vivant, ut Domini, de terris & redditibus & firmis ſuis; & non ut Husbandi, non ut Paſtores, Devaſtantes Dominia ſua, & Patriam, cum multitudine Ovium & Beſtiarum, Penuriam, Paupertatem & Deſtructionem in Populo Dei inducentes. Alſo the King ordains, That the Earls, Barons, and Free-holders, do keep Peace and Juſtice amongſt their Servants or Tenents, and that they live as Lords upon their Lands, Rents, and Farms; and not as Huſbands and Plough-men, not as Shepherds, waſting their Demeaſns or Lands, and the Country, with great numbers of Sheep and Beaſts, cauſing Penury, Poverty, and Deſtruction amongſt the People of God. Here we ſee the Free-holders were Lords of Mannors at leaſt, and not ordinary People.*

Ibid. c. 33.

C *Anno Gratia 1214. Apud Sconam, Alexander Dei Gratia Rex Scottorum, communi concilio comitum ſuorum, pro utilitate Patriæ decrevit, quod omnes Ruſtici in eiſdem locis & villis, in quibus præterito anno fuerunt; hoc anno Agriculturam exerceant, &c. In the year of Grace 1214. Alexander King of Scots Decreed at Scone by the Council of his Earls, that all Ruſticks or Ploughmen, that left any Place or Village, ſhould the next year Till or Fallow the Ground there, &c. Præterea conſtituit Rex & Principes, ut agreſtes, qui amplius quam quatuor vaccas habent, ad quærendum victum ſibi & ſuis, ad ſuſtentationem vitæ, terras ſub Dominis ſuis accipiant, & arent & ſeminent.*

D *Furthermore the King and Princes ordain, that Country or Field-men, or perhaps Highlanders which have four Cows for their Livelyhood, and the ſupport of them and theirs, ſhall take Lands under their Lords, and Plough and Sow them.*

Stat. Alex. 2.
fol. 21. n. 1.

Ibid. n. 2.

E *Item, Statuit Dominus Rex Alexander apud Strivelin coram magnatibus ſuis, tam viris Eccleſiaſticis quam aliis. Quod de cætero, &c. King Alexander ordained at Sterling before his Great men, as well Eccleſiaſticks as others: That from henceforward, &c. Statuit Rex per conſilium, & aſſenſum totius communitatis ſuæ, Quod nullus Episcopuſ, Abbas, Clericuſ, Comes, Baro, vel aliquis aliuſ de Regno Scottiæ, &c. The King ordains, by the Counſel and aſſent of his whole Community; that no Biſhop, Abbat, Clerk, Earl, Baron, or any other of the Kingdom of Scotland, &c.*

Ibid. c. 3.

Ibid. c. 4.

Statutum eſt quod nec Episcopuſ, nec Abbateſ, nec Comiteſ, nec aliqui Libere-tenenteſ, tenebunt curiaſ ſuaſ, niſi Vice-comes Regiſ vel ſervienteſ

Ibid. c. 14.

Vice-comitis ibidem fuerunt, &c. It is ordained, that neither Bishops, nor Abbats, nor Earls, nor any Free-holders, shall keep their Courts, unless the Kings Sheriff, or his Serjeants were there, &c. This again shews us, that the Free-holders were at least Lords of Mannors.

Of what Persons the Parliaments in Scotland do consist.

Now we, to evince clearly what the *Communitas, Probi Homines, and Libere-tenentes* were, and of what Persons the Parliament in Scotland under these various Appellations did consist, I shall produce the Title of a Parliament holden the Thirteenth year of Robert the First, who began his Reign *A. D.* 1306. the 31th of our Edward the First.

Statuta Roberti 1. fol. 29.

In Dei Nomine Amen. Robertus Dei Gratia Rex Scotorum.

Anno Regni sui Decimo tertio Die Dominica proxima cum continuatione Dierum post festum Sancti Andreæ Apostoli, subsequens; Residens apud Sconam, in plano Parlamento suo, tento ibidem; Habitoq; solenni Tractatu, cum Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & aliis Magnatibus, de Communitate totius Regis ibidem Congregatis, super variis & arduis negotiis, ipsum & Regnum suum tangentibus, atque futuro tangere valentibus: Ad Honorem Dei, & Sanctæ Matris Ecclesiæ, & ad Emendationem terræ suæ, Tutitionem populi, & ad pacem terræ suæ manu-tenendum, & affirmandam. De communi consilio, & expresso consensu, omnium Prelatorum, & Libere-tenentium Prædicatorum ac totius Communitatis Prædicæ; ordinavit, condidit, & stabilivit statuta infra scripta, ab omnibus per Totum Regnum suum, perpetuo, & inviolabiliter observanda.

The Community of the Kingdom of Scotland.

In the Name of God Amen: Robert by the Grace of God King of Scots, in the 13th year of his Reign, upon Sunday next after the Feast of St. Andrew the Apostle, with Continuation of the following days. Residing at Scone, in his plain Parliament (so the Scots render it) there holden. Having had solemn Treaty with the Bishops, Abbats, Priors, Earls, Barons, and other great men of the Community of the whole Kingdom there met together. Upon sundry and difficult Matters, touching himself and his Kingdom, and such as for the future might concern them: To the Honor of God, and Holy Mother Church, and the mending of his Land, the Safety of the People, and to maintain Peace by Common Council, and express consent of all the Prelates and Free-holders aforesaid, and of the whole Community aforesaid, hath ordained and established the under written Statutes, to be perpetually and inviolably observed by all People through his whole Kingdom.

Statut. Rob. Tertii, fol. 63.

And further, to shew that all these were Tenents in Capite, I shall add another Title of a Parliament in the Time of Robert the Third, who began to Reign *A. D.* 1390. in the Tenth of our Richard the Second.

The Community of Scotland were Tenents in Capite.

Parliamentum Domini nostri Roberti Tertii Scotorum Regis illustrissimi, Tentam apud Sconam die Lune, vicesimo primo Februarii, Anno Gratia 1400. Regni sui undecimo, cum continuatione Dierum subsequens: Sumonitis & ibidem vocatis, more solito, Episcopis, Prioribus, Ducibus, Comitibus, Baronibus, Libere-tenentibus, & Burgensibus, Qui de Domino nostro Rege Tenent in Capite.

The Parliament of our Lord Robert the Third, the most Illustrious King of Scots, held at Scone on Monday the twenty first of February, 1400. and in the Eleventh of his Reign, with Continuation of the subsequent days, the Bishops, Priors, Dukes, Earls, Barons, Free-holders,

holders, and Burgesſes, which hold of our Lord the King in Chief, being called, and ſummoned thither, according to uſual Cuſtom.

Tenents in Capite, the conſtituent parts of the Parliament of Scotland.

A This Gentleman hath hunted quite through this Book, to find a ſcrap or two, he thought might, by the ſound of the words, ſerve his purpoſe, and willfully overlooked what I have here cited. (If he hath patience) the Reader may pauſe a while, and admire his Hon-
neſty, Integrity, Ingenuity, Sagacity, &c.

Having thus ſhewn the ancient Conſtitution of the Scottiſh Parliaments, for the Readers ſatisfaction, I ſhall further ſhew when, and how it was altered.

B In the ſeventh Parliament of King James the Firſt, held at Perth, A. D. 1420. there was a Law made, that ſmall Barons, and Freeholders, needis not to come to Parliaments. The Tenor whereof is, The King with conſent of the haill Council, generally hes Statute and ordained, That the ſmall Barronnes, and Free Tenentes, neid not cum to Parliaments nor general Councils, ſwa that of ilk Schirefdome there be ſend, choſen at the head Court of the Schirefdome, twa or maa wiſe men after the largeneſs of the Schirefdome, out tane the Schirefdomes of Clakmannan and Kinroſſe, of the quhilkis ane be ſend of ilk ane of them, the Quhilk ſall be called Commiſſares of the Schire, and be their
C Commiſſares of all the Schires ſall be choſen ane wiſe man, and expert called the Common-Speaker of the Parliament; The Quhilk ſall prove all and ſundry needis and cauſes pertaining to the Commons in the Parliament or general Council; The Quhilkis Commiſſares ſall have full and haill Power of all the Laif of the Schirefdom, under the Witneſſing of the Schireffs Seale, with the Seals of divers Barronnes of the Schire, to hear, treat, and finally to determine all Cauſes to be pro-
D poſed in Council or Parliament: The Quhilkis Commiſſares and Speakers ſall have Coſtage of them of Ilk-Schire, that awe Compeirance in Parliament or Council, and of their Rents, ilk pound ſall be utheris fallow to the Contribution of the ſaid Coſtes. All Biſhoppes, Abbots, Priors, Dukes, Erles, Lordes of Parliament, and Ban-rentes, The Quhilkis the King will be received and ſummoned to Council and Parliament, be his Special Precept. The Title of this Parliament runs thus.

The Laws and Acts of Parliament of Scotland, f. 17. n. 102.

When and how the Conſtitution of the Scottiſh Parliament was altered.

E In Parlamento ſeptimo, vel Concilio generali illuſtriſſimi principis Domini Jacobi, Dei Gratia Regis Scotie, Tenta apud Perth, primo Die Menſis Martii, A. D. 1427. & Regni Domini Regis 23 cum continu-
atione Dierum & Temporum, ſummonitis & vocatis more debito, & ſo-
lito, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & Libere-tenentibus, Qui de Domino noſtro Rege tenent in Capite, & de quolibet Burgo certis Burgensibus, comparentibus omnibus illis, qui debuerunt, voluerunt, & potuerunt commode intereſſe, quibusdam vero
F abſentibus, quorum aliqui legitime excuſati fuerunt, aliis ſe contumaciter abſentantibus, quorum Nomina patent in Rotulis Segarum. Quorum quilibet adjudicatus fuit in amerciamento decem librarum, ob ſuam contumaciam. 'Tis moſt clear from this, and the other Titles of Parliaments, that the Commons in Scotland were only the Kings Tenents in Capite, and are ſo at this day, according to the Confirmation of this Act of Parliament, in the Eleventh Parliament of King James the Sixth, holden at Edinburgh July 29. 1587.

Ibidem.

Ibid. f. 290.
n. 1. 3.

* Which is
now Ten
pounds Ster-
ling per annum
real value.
Present State
of Scotland,
p. 77.

Present State
of Scotland,
p. 77, 78,
The Burghs
make the
third Estate
in Scotland.
Ibid. p. 127.
131.
The Kings
Burghs only
send Commis-
sioners to Par-
liament in
Scotland.

Our Sovereine Lorde, remembrance of ane gude and lovable a^d maid by his Hienesse progenitour King *James* the First, of worthie Memorie, in the *Parliament* halden at *Perth*, the First day of *March*, the Zeire of God, anethousand, four hundreth, twenty seven Zeires, anent the *Commissioners* of small *Baronnes* in Parliament, That his Majestie and saidis Estaites wald ratify and Appreeve the same, to have full Effect, and to be put to Execution in time cominge: and of new, Statute, and Ordain for the Mair full Explanation of the same Act, and certain Execution thereof; That precepts suld be directed forth of the *Chancellerie*, to ane *Barron* of ilk *Schire* first, to Conveene the *Free-holders* within the same *Schire*, for chusing of the *Commissioners*, as is contained in the Act. Quhilkis *Commissioners*, beinge anis choosen and sent to Parliament, the precepts of Parliament, for conveyeing of *Free-holders* to the Effect foresaid, to be directed to the last *Commissioner*s of ilk *Schire*, quhilkis fall cause chiefe twa wise Men, beinge the *Kings Free-Holders*, Resident *Indwellers* of the *Schire*, of gude *Rent*, and *Weill Esteemed*, as *Commissioners* of the same *Schire*, to have power and to be authorized, as the Act proportis, under the *Commissioners* Seale, in place of the *Schireffes*; And that all *Free-Holders* of the *King*, under the Degree of *Prelats*, and *Lords* of *Parliament*, be warned be proclamation, to be present at the choosing of the saidis *Commissioners*: and nane to have *Voit* in their Election, bot sik as hes * *fourtie Shilling Land* in *free-tennendrie*, halden of the *King*, and hes their actual dwelling and residence within the same *Schire*, &c. And that the *Compeirance* of the saidis *Commissioners* of the *Schires* in *Parliaments* or general *Councels*, fall Relieve the haill remanent small *Barrones*, and *Free-Holders* of the *Schires*, of their *Suites*, and presence, aucht in saidis *Parliaments*. By this last passage, and the Title to the seventh Parliament of King *James* the First, it seems, that the small *Barons*, *Free-holders*, or *Tenents* in *Capite*, thought it a burthen to them to come to, and remain in *Parliaments*, and that they were not willing to undergo that trouble, and therefore in all probability they petitioned they might appear and be represented by *Commissioners*.

As to the *Burroughs* they make the third Estate, and do send but one *Commissioner* or *Burgess* (except the City of *Edinburgh* which sends two) which are chosen by the *Common Council* of the *Towns*. There are in *Scotland* three sorts of *Burghs*, that is to say, *Royal Burghs*, *Burghs* of *Regality*, and *Burghs* of *Barony*: The *Royal Burroughs*, the *Burgi Dominici Regis*, or *Qui de Rege tenent in Capite*, only send *Commissioners* to *Parliament*, and are in Number Sixty.

If I may have the liberty to urge what hath been said concerning the *Constituent* parts of the *Scottish* *Parliaments*, it seems to me that from the great affinity there was, and is, between ours and theirs, to be certain, that our and their *Comunitas Regni*, was the same, that is, they were the small *Barons*, and *Tenents in Capite*; and that it is highly probable, that when this *Comunitas* left of coming *Personally* to *Parliament*, and came by *Representation*, that they were at first represented by two of their own number, sent from every *County*, and also that it is highly probable that originally the *Burghs* that sent *Members* to *Parliament*, were *Burgi Dominici*, the *Kings* or *Royal Burghs*, such as ever did, and do at this day in *Scotland* only send *Burgesses* to *Parliament*.

The Third Levelling Observation, by which he insinuates a parity of all Men, and makes Lords Commons, and Commons Lords; I shall Examine, and shew the Vanity of it.

From the various acceptation of the word *Baro*, and an end or two of *History* which he never understood, he concludes that under the phrase of *Baronagium Anglie*, both *Lords* and *Commons* were comprehended. The various significations of the word *Baro*, he grounds upon the various meaning of the word *Aldermannus*, and says, as there were *Aldermanni Regis*, *Aldermanni Comitatus*, *Civitatis*, *Burgi*, *Castelli*, *Hundredi*, five *Wapentachii*, & *Novemdecimorum*; so there came instead of them, when that name was changed, or worn out, *Barones Regis*, *Barones Comitatus*, *Barones Civitatis*, *Barones Burgorum*, *Barones Castellorum*, *Barones Hundredorum* five *Wapentachiorum*.

But this only is a fancy of his own, for of all these *Barons* he hath reckoned up, he cannot shew half of them in any Author I ever saw, nor can he shew any of them taken in the same sense, that *Aldermen* were; for these were always *Officers* and *Magistrates*; So Sir Henry Spelman, *Quo nomine Magistratus semper indicatur*, by which name of *Alderman*, a *Magistrate* was always signified. And in the same Column, *Principes igitur & Rectores Provinciarum*, *Comites*, *Præsides*, *Senatores*, *Tribunos generali nomine alias atque alias Aldermannos appellabant*. They called *Princes*, *Governors of Provinces*, *Earls*, *Presidents*, *Senators*, *Tribunes*, by the general name of *Aldermen*. So the Kings *Alderman* was the Kings *Justiciary*, the *Alderman of the County* was the *High Sheriff*, or other *Great Minister of Justice*. The *Aldermannus civitatus*, *Burgi*, seu *Castelli*, was the *Mayor*, or *Bailif of the City*, or *Town*, and the *Alderman of the Castle* was the *Castellan*, or *Constable*, or *Governor of the Castle*; The *Alderman of the Hundred* was the *Centenary*, *Hundredary*, or *Chief Magistrate* that had the *Care of the Hundred*. But the *Barones Regis* as such, were not *Officers* or *Magistrates*, they were not only *Great Barons*, that possessed *Great Estates*, and held of the *King* by *Military Service* in *Chief*; So the *Barones Comitatus* were not *Magistrates*, but only *Feudal Barons*, and also *Milites* and *Freeholders*, that were *Inhabitants* and *Landholders* in the *County*. Nor were the *Barones de London*, *Eboraco*, &c. *Magistrates of the Cities*, &c. but only *cives*, & *homines de London*, &c. *Citizens* and *Inhabitants of London* and *York*, and other *Barons* then these, and such as these, he can find none: Nor can he ever shew that *Baro* was a Name of *Office*, and generally appropriated to the *Magistracy*, as *Aldermannus* was.

Page 108.

Page 109.

Ibid.

Alderman was a word signifying an Office.

Glossar. fol. 42. col. 2. l. 20.

Line 33. Dukes, Princes, Earls, which were the Knights Great Officers, were called Aldermen.

Seld. Tit hon. fol. 505, & 509.

Spel. Glossar. fol. 25. col. 2.

Ibidem, fol. 26. col. 1, 2.

Ibidem, fol. 69. col. 1.

Baro, not a Word of Office.

Ibidem, fol. 70. col. 2.

The Barons of the Exchequer were originally the great Barons of the Kingdom, and thence the Name.

From

The Lords Court was *Curia Baronum*, Court of Freeholders, not *Baronis*, and sometimes *Curia Militum*. Ibid m. fol. 68. col. 1.

Tit. Hon. fol. 575. P. 110. * The words of Selden upon Eadmer, are upon the word *Barones*. *Vocabulum nempe alia notatione usurpata quam vulgo, neque eos duntaxat ut hodie significare quibus peculiaris Oridinum Comitatus locus est.* That is, it signifies all Tenants in Capite, as he here explains himself, and not ordinary Men, as our Author would have it. *Tit. Hon.* fol. 570. *Britan.* fol. 124.

* Our Author hath left out the word *Superiores*, and Cites the place thus; *Nomine Baronagii Anglie Omnes quodammodo regni Ordines continerentur*, p. 111. and cites no more.

P. III.

From whence it is clear, he understands not the true acceptation of these two words; but suppose he did, Will he conclude because the word *Barones* signified sometimes the Great Barons, sometimes the *Milites*, and Free-Feudal-Tenants, that the Commons were part of the Baronage of England, and comprehended in those words? He may as well say, that all Men of England were part of the Baronage, because *Baro* signifies a Man. Or that every Cöbler, Chimney-sweeper, or inconsiderable Tradesman in London are part of the Gentry of England, because they take upon them, and are called *Wasters*, and *Witresses*. Sure Sir Henry Spelman understood the Baronage of England to be another thing, when he said *Barones Classes supra omnes plebeias elati inter Pares regni numerantur*. The Barons being raised above all Orders of the Plebeians, are numbred amongst the Peers of the Kingdom. And the great Selden tells us, what he meant in his * Notes upon Eadmer, and the very place by our Author cited. The Phrases, saith he, of *Tenentes per Baroniam & Servitia Militaria & Milites & Barones Tenentes in Capite de Rege*, are used for the same Persons (*Baro*, also & *qui de Rege tenent in Capite*, are so used) in two Laws, the one of William the First, the other of Henry the Second, touching Excommunication, as is noted upon Eadmerus, p. 168. & seq. These are the very words of Learned Selden, and therefore in this place of his Notes upon Eadmer, which is brought to confirm this Gentlemans conceit, he did not mean the Commons, or any Ordinary Persons, but the *Tenents in Capite*, or Peers. And in another place, he says, the Honorary Title of *Barones*, and *pares Baronum* are equally both Parliamentary, and may signifie the whole Baronage.

The Learned Camden likewise a little after the words he hath cited out of him, speaks thus. *In Chartis & Historiis istius seculi omnes fere Nobiles dicantur Barones, pleneque Honoris illa appellatio, sane tunc erat, & nomine Baronagii Anglie, omnes * Superiores quodammodo Regni Ordines, Scilicet Duces, Marchiones, Comites, & Barones, continebantur, sed ad summum honorem provenit, ex quo Rex Hen. tertius ex tantâ multitudine, quæ seditiosa & Turbulenta fuit, Optimos quosque rescripto ad Comitatus Parliamentaria evocaverit.* In the Charters or Charters, and Histories of that Age (toward the latter end of Henry the Third) almost all Noblemen were called Barons, and that appellation was then full of Honor, and in the Name of the Baronage of England, as it were all the Superior Orders of the Kingdom (that is to say) Dukes, Marquesses (meaning such as had those Titles afterwards) Earls and Barons were contained. But it arrived at the greatest height of an honorary Title since. Henry the Third, out of so great a Multitude, which was Seditious and Turbulent, called the best and chiefest of them only by Writ to Parliament.

These are the most truly Learned Antiquaries, whose Authority our Author says is such, that it would be a presumption in him to go about to add any thing. Yet he accounts it no presumption to pick here, and there a shred out of them, which sounds like something he fancies, and to urge it in favor of his own Whimsy, against the declared Minds and Intentions of those Authors. And this is the excellency, and perfection, and common practice of this Gentleman, to bring

bring *Fragments, Phrases and Words* out of *Records and Histories*, which sound like, or seem to countenance his *Inventions*, contrary to the true meaning of those *Records*, and right sense of *Historians*. As I have already in many instances shewed, and do desire the Reader with Attention, to take notice of these most notable ones that follow.

A In the 29 of Henry the Third, there were generally great Complaints of the **Papal Exactions**, and the King made sensible of it, upon inquiry found, that the **Pope** annually received from England 60000 Marks. *Tunc Dominus Rex cepit detestari insatiabilem Romanæ Curie cupiditatem, & totius Regni, imò etiam & Ecclesiæ per eam factas injurias occupationes illicitasque rapinas; compositâ igitur per Regni Universitatem Eleganti Epistolâ in quâ extortiones papales minus execrabiles, & exactiones multiformes Legatorum ejus, & quorundam clericorum potestate inauditâ fungentium continebantur. Cum quâ viri Nobiles ac discreti ad Concilium destinantur gravem super his & præcipuè super exactione Tributi in quod nunquam consensit regni Universitas coram concilio querimoniam reposituri. Electi sunt igitur & ad hoc nomine totius Universitatis Regni Angliæ ad Concilium Lugdunense Missi, Comes Rogerus Bigod, Johannes filius Galfredi, Willielmus de Cantelupo, Philippus Basset, Radulphus filius Nicholai, & Magister Willielmus Poweric Clericus.*

Anno Dom.
1245.
Paris, fol.
658. n. 40, 50,
& 659. l. 1.
at this day
480000 l.

Council of
Lyons.

Ibid. n. 10.

Five Commis-
sioners sent
to the Coun-
cil of Lyons.
Mr. William
Powerick was
a Lawyer.

C Then the King began to detest the insatiable Avarice of the Court of Rome, the *Injurious Incroachments*, and *Unlawful Rapines* made by it upon the whole Kingdom, and the Church also. Therefore there was an *Elegant Epistle* composed by the University of the Kingdom, which contained the execrable *Papal Extortions*, and many *Exactions* of his *Legats*, and of certain Priests executing unheard of Power. With which *Epistle*, Noble and Discreet Men were sent to the Council, to make Complaint of these things, and especially the *Exaction* of *Tribute*, unto which the *University* of the Kingdom never gave their consent; there were therefore chosen, and for that purpose sent in the Name of the University of England to the Council of Lyons, Earl Roger Bigod, John Fitz-Geofry, William de Cantelupe, Philip Basset, Ralph Fitz-Nicholas, and Mr. William Poweric Clerk. And our Author adds *Milites*, after the last four Lay-men, as he finds it in *Mat. of Westminster*, by which I suppose he thinks he hath an advantage, because he thereby makes it appear, that the *Milites* were part of the *Universitas Regni Angliæ*.

P. 112.

Fol. 311. n.
30.

F I do not deny it, for the great *Milites* were often stiled *Barons*, and *Barons Milites*. Nam *Miles* (saith Sir Henry Spelman) quem Baronem vocabant non à Militari Cingulo (quo equites creabantur) sed à *Militari feodo* quo alias possessor & libere Tenens nuncupatus est, nomen sumpsit. For the name of *Miles* was not from the Military Girdle, or Cincture, by which Knights were created, but from the *Military Fee* which the *Miles* enjoyed, from whence he was sometimes called a *Free-tenant*; Such as had *Lands* given them for, or such as held *Lands* by *Military Service*, and did *Homage and Fealty* to those, of whom they held their *Lands*. And in this sense *Mat. Paris* calls all the Temporal Nobility *Milites*; When in the Parliament 37 of Henry the Third, he says, à *Militibus concessum* est

Glossar. fol.
72. col. 1.
See the same
derivation of
Miles. Cambd.
Brit. fol. 123.
The name of
Miles from
the Military
Fee.

Fol. 866. n.
20.
The Tempo-
ral Nobility,
all called *Mi-
lites*.

est scutagium illo Anno ad Scutum tres Marce; at which time the Clergy had given the *tenth* part of their Revenue for three years. A brief Account of these four Persons, what they were, will inform us, that Barons and Great Men, were, in Historians, called simply *Milites*, in the Notion Sir Henry Spelman hath given of the word.

Dugd. Baro-
nige, Tom. 1.
fol. 706. Col.
2. fol. 707.
col. 1.

1. John Fitz-Geofry was Son and Heir to Geofry Fitz Piers Earl of Essex, and Father to John Fitz-Geofry, and Grandfather to John Fitz-John the Great Rebel, that joyned himself with Simon Montfort.

A

Ibid. fol. 732.
col. 2.

2. William de Cantelupe was a Baron, or Great Tenent in Capite, paid *Ayd* this very year towards the Marriage of the Kings Eldest Daughter, for 27 Knights Fees, and three parts.

B

Ibid. fol. 384.
col. 1, 2.

3. Philip Basset was at this time a great Baron, and made Justice of England, 45 Hen. III.

Cl. 24 Hen. 3.
m. 10. Dors.

4. Ralph Fitz-Nicholas was at least a Great Tenent in Capite, and Father to Robert Fitz-Nicholas, who, among other Great Tenents in Capite, was summoned to appear at Chester, on Monday before the feast of St. John Baptist, 42 Hen. 3. to March against Lenellin Prince of Wales: He was a Baron, vide Mat. Paris, fol. 590. n. 40.

C

These were the four Barons that Mat. of Westminster calls *Milites*, and our Author would have common persons, but by what right let the Reader Judge.

Mat. Par. fol.
658. n. 40.

Ibid. 29 Hen.
3. 1245.

Fulco Fitz-
Warini.

Ibid. 659. n.
10.

* He was
one of the
Great Barons
Marchers to-
wards Wales,
Dugd. Bar.
Tom. 1. fol.
444. col. 2.
Salutation of
the Popes Legat.

Paris ut supra.
n. 20.

The Universi-
ty of Armed
Men.

Ibid.

By what precedes the Account of the Election of this Earl, and four Barons with their Secretary Poweric, by the University of the Kingdom to go to, or represent them at the Council of Lyons as Commissioners, it appears they were elected in Whitfun-week, and upon the 30th day of June next following, at a full Torneament intended to have been held or exploited at Luton and Dunstable; which was forbidden by the King. * Fulco Fitz-Warini was sent *ex parte Universitatis Regni ad Magistrum Martinum Papae Clericum*, &c. on behalf of the University of England to Master Martin the Popes Clerk (who was his Legat and Instrument of the great Exactions aforesaid) which Fulco beholding him with a stern countenance, bad him immediately to go out of England; to whom Master Martin said, Who commands me to do this? Is it from your self? To whom Fulke answered, *hoc tibi per me mandat Armatozum, qui nuper apud Luitoniam & Dunstapliam apparuerunt. Universitas.* The University of Military Men, that lately appeared at Luton and Dunstable by me do command you to do this; and bad him again be gone, or he and his Followers would in three days be cut in pieces. Master Martin much terrified and affrighted at this Salutation, went immediately to the King, and told him what he had heard, and asked him whether it was done by his Authority. The King told him he was not the Author of any such thing, But my Barons (saith he) can scarce contain themselves from an Insurrection against me, for that I have so long suffered your Depredations and Injuries in my Kingdom.

D

E

F

The

The Story makes it plain, who were the **Univerſitas Regni**, to wit, the **Barons**, or the **Univerſitas Armatoꝝum**, the *University of Armed or Military men* convened to hold a full Torneament, who the *King* calls **his Barons**.

Note the University of the Kingdom were the Kings Barons.

And who alſo the **Univerſitas Regni** were that inſtructed their *Procurators* to declare in the Council of *Lyons* as aforeſaid, that they never conſented to the exaction of *Tribute* by the Pope; 'tis very plain from the complaint of **William Poweric** their *Procurator* or *Orator* at the Council of *Lyons* delivered in theſe words.

He was a Lawyer.

Aſſidentibus ibidem Anglicana Univerſitatis Procuratoribus prænomi-
natis, Magiſter Willielmus de Poweric eorum Procurator aſſurgens
gravamina Regni Angliæ ex parte Univerſitatis Angliæ proponens; con-
queſtus eſt graviter. Quod Tempore Belli per curiam Romanam ex-
tortum eſt tributum injurioſè in quod nunquam Patres Nobilium
Regni vel ipſi conſenſerunt, nec conſentiunt, neque in futurum conſen-
tient, unde ſibi petunt exhiberi juſtitiam cum Remedio. The *Procu-*
rators of the *University of England* beforenamed ſitting in the
Council, Maſter *William Poweric* their *Procurator* ſtood up, and
propounded the grievances of the Kingdom of *England*, on the be-
half of the **Univerſity** of *England*, complaining grievouſly that in
the time of War there was a *Tribute* injurioſly impoſed on the
Kingdom by the Court of *Rome*, to which the * *Fathers* of the
Noblemen of the Kingdom, nor they *themſelves* never conſented,
nor do, or ever ſhall conſent, upon which they crave *Juſtice* with
remedy. To which complaint the **Pope** making no *Anſwer*, *Wil-*
liam Poweric thereupon produced an *Epistle* which declared the many
Extortions made in *England* by the *Roman Court*, thus directed.

Ibid. fol. 666. n. 40.
A Secretary to the other four.

*The Univerſity of *Eng-*
land that ſent theſe *Procu-*
rators, and made this
complaint, are called here
the *Noblemen* of the King-
dom, that
craved *Juſtice*.

Reverendo in Chriſto Patri Innocentio Dei gratia ſummo Pontifici,
Magnates & Univerſitas Regni, &c. To the Reverend Father in
Chriſt, *Innocent* by the Grace of God *Pope*, the Great Men, and
Univerſity of *England*, &c. What this *University* was, that made
this complaint we have juſt now heard.

Ibid. n. 30.

From this Council the **Pope** wrote to the *Biſhops* and *Patrons* of
Churches through *England*, and to the King, that they ſhould have
ſatisfaction in all their Grievances; yet not performing his promiſes,
medio Quadrageſimæ videlicet die quâ cantatur Letare Jeruſalem,
Edicto Regio convocata, convenit ad Parlamentum generaliſſimum
totius Regni Anglicani totalis Nobilitas Londini, videlicet Prelato-
rum tam Abbatum & Priorum, quam Epiſcopoꝝum, Comitum
quoque & Baronum ut de ſtatu regni jam vacillantis efficaciter, prout
exegit urgens neceſſitas contrectarent. In the middle of *Lent* (that
is to ſay) on the day on which the *Hymn*, *Letare Jeruſalem* was
uſually ſung, being called by the *Kings Writ*, there did meet at a
moſt general Parliament at *London*, the whole *Nobility* of the whole
Kingdom, that is to ſay of the *Prelats*, as well *Abbats* and *Priors*,
as *Biſhops*; and alſo of the *Earls* and *Barons*, that they might treat
effectually of the unconstant ſtate of the Kingdom, according to the
urgent neceſſity of it.

Ibid. 695. n. 10.

Ibid. l. 1.

A moſt gene-
ral Parliament
which conſiſt-
ed only of
Biſhops, *Ab-*
bats, *Priors*,
Earls, and *Bar-*
ons.

Ibid. 698. n. 40.
The King confers with the Bishops apart, and the Earls and Barons apart.

Ibid. 698. l. 40.
A. D. 1246. 30
Hen. 3.

Ibid.

Ibid. f. 699.
n. 20.

Ibid. n. 30.
Ibid. fol. 700.
n. 10.
Ibid. n. 50.

P. 114.

There were then very many more Earls than these eight here named.

* *Paris ut supra*, fol. 701.
n. 20, 30.
P. 114.
Our Author falsely applies History.

Constituent Members of that Parliament.

In this very **Parliament** the King confers with the **Bishops** by themselves, the **Earls**, and **Barons** by themselves, about this Business of the **Pope's** not keeping his Promises; and certainly if there had been then any **Commons** in this **Parliament** he would have also conferred with them about the same matter.

The *Historians* words are, *Convenientibus igitur ad Parliamentum memoratum totius regni Magnatibus, Die videlicet qua cantatur Letare Ierusalem, in primis aggressus est Dominus Rex ore proprio Episcopos per se, postea vero Comites & Barones, deinde autem Abbates & Priores videlicet supra his pro quibus miserat Nuntios suos solempnes ad Concilium Lugdunense, &c.*

The result of these Conferences was, that yet for the reverence due to the **Apostolick See**, they should again supplicate the **Pope** by Letters, to remove the intolerable grievances and importable yoke.

And this they do according to the *Kings* separate Conferences with them. The **Bishops** write by themselves, the **Abbats** and **Priors** by themselves, and the **Earls**, **Barons**, &c. by themselves to the *Pope*; and if there had been any **Commons** as at this day, most certainly they would likewise have wrote to the *Pope*, as well as the other constituent parts of this **Parliament** did.

Our Author very cunningly recites the Directions of the last Letter only of the *Earls* and *Barons*, &c. to the *Pope*, *Sanctissimo, &c. Devoti filii sui Comes Cornubiæ, Richardus S. de Monteforti Comes Legrecestriæ, De Boun or Bohun Comes Herefordiæ & Essexiæ R. lē Bigod Comes Northfolkiæ. R. Comes Gloverniæ & Hartfordiæ. R. Comes Wintoniæ. W. Comes Albamarliæ. H. Comes Oxoniensis, & alii totius Regni Angliæ Barones Proceres & Magnates, ac Nobiles Portum Maris Habitatores, nec non & Clerus & Populus Universus Salutem, &c.* And takes no notice of the other Letters from the Bishops, or Abbats and Priors, or those of the King, one to the *Pope*, * another to the Cardinals upon the same subject. And then tells us, that *Mat. Paris* calls this a **Parliament**, truly citing the place of that Author, fol. 698. n. 40. and but these words only, *Convenientibus igitur ad Parliamentum totius Regni Magnatibus*, and applies them to the words above written, and would have the *body* of the people of *England* included in the **Magnates**. But if he had intended to have dealt candidly with his Readers, he should have let them know there were the **Magnates** particularized, and that they were the *very Bishops*, the *very Earls*, and *Barons*, the *very Abbats* and *Priors*, with whom the *King* had separate conference, who jointly agreed every **Order** of them, should (besides the *King*) write particularly to the **Pope** about their grievances, as we have said before.

Nor were these **troup** of words here drawn up in this Letter to any other purpose than to make an impression upon the **Pope**, and make him sensible what a general dislike the *Nation* had of his exactions and incroachments, and to induce him to a compliance with their desires, the *Multitude* not being any ways parties, or privy to the writing of the Letter; for the clamour of the People was a great

great Argument used in all these Letters to affect the Pope, how Ingrateful his impositions were to the Nation. But in this of the Temporal Barons more especially, who address themselves to the Pope by Petition, inforcing it by the Clamour of the people; *implo- rantes etiam humiliter & devotè quatenus ob spem retributionis divina, voces clamantium post vos dignemini misericorditer exaudire, & grava- minibus, injuriis & oppressiõibus Regno Angliæ, & Domino nostro Regi multipliciter impositis, ac illatis, velitis salubre Remedium ad- hiberè, alioquin necesse est ut veniant Scandala clamore populi tam Do- minum Regem quam nos intolerabiliter impellente.* That is, We hum- bly and obsequiously implore, that for the hope of Divine Retribu- tion, you would mercifully vouchsafe to hear the Petition of such as cry after you, that you would apply a wholesome Remedy, to the grievances, injuries, and oppressions, which are many ways im- posed upon the Kingdom of England, and our Lord the King, other- wise of necessity Scandals will come, by the clamour of the people intolerably urging as well the Lord the King, as our selves.

The Clamour of the people used as an Ar- gument to the Pope, &c. Paris fol 701. n. 10.

Ibid. n. 20.

The King in his Letters to the Pope about this matter, tells him, the clamour of the great Men, as well of the Clergy as Laity, was such as he could not indure to hear it, *verum Clamorem incompara- bilem Magnatum Angliæ, tam Cleri quam Populi non possumus obau- dire.*

And in his Letters to the Cardinals touching the same affair, he lets them know, that how great soever his affection was toward the Ro- man Church, yet he could not by dissimulation pass by the clamour of his Great Men of England as well of the Clergy as Laity against the Popes Oppressions. *Clamorem Magnatum nostrorum Angliæ tam Cleri quam Populi clamentes super Oppressiõibus, &c. non possumus dissimulando pertransire.*

Note the great Men of England, as well Clergy as Laity, were the Kings Magnates. Ibid. n. 30.

From this general Clamour of the People, and not from their be- ing Parties, it was that the beginning of the Letter from the Ba- ronage, or as 'tis in the Margin, the Univerſity of England was stuffed with so many words and phrases to awaken the Pope, and incite him to redress the grievances.

Ibid. fol. 700. n. 50.

In the rear of all these, and within the time of the 49 Hen. 3. he brings a Record to patronize this conceit of his about the Ba- ronage of England.

P. 114.

Rex Abbati de Sancto Edmundo Salutem; cum pro oppressiõibus in- numerabilibus factis in regno nostro per Ecclesiam Romanam ob quam Magnates nostri ad sedem Apostolicam appellarunt & quodam (a) pro ipsius & pro Univerſitate Baronagii Angliæ ad Concilium in brevi celebrandum, ad Appellationem suam prosequendam duxerint destinandos.

Cl. 29 Hen. 3. m. 8. dorf.

(a) Here he hath mended the Record, and in stead of *de ipsis*, as it is in the Record, he hath put *pro ipsis*, and added the Particle *Et* immediately after it, which is not in the Record, to serve his purpose.

A Mandate to the Abbat of St. Edmunds-Bury, against the oppressions of the Church of Rome.

Cl. 29 Hen. 3. m. 8. Dors. Note, Magnates de ipsis pro Universitate, not pro ipsis & Universitate, as our Author hath made it.

This Record was a Mandate to the Abbat of Bury, for restraining the **Papal** Legat, his Clerk **Dr. Barrin**, for gathering any **Papal Subsidies** in his Jurisdiction, or collating any person to Benefices without the **Kings** knowledge, until the **Messengers** sent by the **Baronage** to the Council of Lyons were returned, or sent answer what was to be done. The Record, as 'tis found in the Roll, I here transcribe it word for word.

Rex Abbati de Sancto Edmundo Salutem; cum pro oppressionibus innumerabilibus factis in regno nostro per Ecclesiam Romanam, ob quam Magnates nostri ad Sedem Apostolicam appellarunt, & quosdam de ipsis pro Universitate totius Baronagii ad Concilium Breve celebrandum, ad Appellationem suam prosequendam duxerint destinatos, &c.

These **Nuntii** or **Messengers** which were **de ipsis**, of the Great Men themselves, I have shewn to be **Earls** and **Barons**, (that is to say) **Earl Roger Bigod**, **John Fitz-Gedrey**, **William de Cantelupe**, **Philip Basset**, and **Ralph Fitz-Nicholas**, all four **Barons**; and if any Man that considers the Record as I have truly related, without his **Alteration** and **Amendments**, cannot but judge the meaning of it to be against his **whimsey**.

I shall give him two or three **Proofs** more, that the **Commons** of **England**, as now understood, could not be a part of the **University**, or which is more, the **Common University** of **England**; and so not part of the **Baronage**, nor were as at this day represented in **Parliament**.

Fol. 381. n. 20, 30.

(a) See before the Summons to the Archbishop of York, 26 Hen. 3. to be at London 15 days after Hilary, which is 28 Jan. and was the summons to this very great Council. (b) He was the Kings Brother.

Ibid, fol. 52. n. 10.

Note this passage.

Ann. Dom. 1242. (saith Mat. Paris) on Tuesday before the Purification of V. M. the Archbishop of York, and all the Bishops of England, the Abbats, and Priors by themselves, or Proxies, and also all the Earls, and almost all the Barons of England met at Westminster, by the Kings (a) Writ to hear his Pleasure, and the Business for which they were called, the King sent to them, Solennes Nuntios, Dicum Dominum Eboracensem, & Dominum Comitem Richardum & Dominum Walterum de Eboraco & Prepositum de Beverlaco, his Commissioners or solemn Messengers, the said Archbishop, (b) Earl Richard, and Walter de Eboraco, Provost of Beverley, to ask their advice, and acquaint them with his intentions. Tandem dicti Episcopi, Abbates & Priores, Comites & Barones magno inter eos tractatu prahabito Domino Regi per predictos Magnates dederunt Consilium, &c. At length the said Bishops, Abbats, and Priors, Earls, and Barons, after a great Consultation between them, gave advice to the King by the said great Men, &c. (which is too long to be inserted here.) Et cum dicti Magnates nuncii istud Domino Regi nunciassent Responsum, redeuntes ad Baronagium dixerunt, Quod in parte sufficiens dederunt Domino Regi Responsum, sed Dominus Rex vult scire, &c. and when the said Great Men the Commissioners or Messengers, had Reported that Answer to the King, they returned to the Baronage, and told them, That in part they had given the King a sufficient answer, but the King will know, &c.

What clearer proof can there possible be, that all the **Bishops** of **England**, all the **Abbats** and **Priors**, and all the **Earls** and **Barons** of

of England, were only the Baronage of England. For they were only those that met at *Westminst.r* by the Kings Writ, they were only those that received the Message from the Kings Commissioners, and consulted about it, they were only those that gave their advice upon that Message, and answer to it, they were only those; and could be no other, which are here called the Baronage, To whom the Great Men the Kings solemn Messengers or Commissioners returned, after they had reported their answer to the King; and told them it was but in part sufficient.

Who and what persons were the Baronage.

Eodem An. (saith the Historian again) *convenerant Regiâ summotione convocati Londinum Magnates totius Regni, Archiepiscopi, Episcopi, Abbates, Priores, Comites, & Barones.* In quo Concilio petiit Rex ore proprio, in presentia Magnatum, in Refectorio Westmonasteriensi; Auxilium sibi fieri pecuniare. Cui fuit Responsum quod super hoc tractarent, recedentesque Magnates de Refectorio; convenerant Archiepiscopi & Episcopi, Abbates & Priores seorsim per se, superque hoc diligenter tractaturi; Tandem requisiti fuerunt ex parte eorum Comites & Barones, si vellent suis Consiliis unanimiter consentire, in Responsione & provisione super his facienda. Qui Responderunt, quod sine Comuni Universitate nihil facerent; tunc de communi assensu electi fuerunt. Ex parte Cleri Electus Cantuariensis; Wintoniensis; Lincolnensis & Wigorniensis Episcopi. Ex parte Laicorum Richardus Comes Frater Domini Regis, Comes Bigod, Comes Legr. S. de Monteforti & Comes Mareschallus W. Ex parte vero Baronum * Richardus de Montfichet & Johannes de Bailloil, & de Sancto Edmundo & Rameseia Abbates; ut quod isti duodecim providerent in Comuni recitaretur, nec aliqua forma Domino Regi ostenderetur auctoritate Duodecim, nisi omnium Communis assensus intervenirent.

Fol. 639. n. 20. A. D. 1244. 28 Hen. 3.

Note who were usually and regularly esteemed Magnates.

* Two great Barons See Dugd. Baronage, Tom. i.

In the same year there were called together by the Kings Summons, the Great Men of the whole Kingdom, the Arch-Bishops, Bishops; Abbats, Priors, Earls, and Barons. In which Council the King by his own Mouth, in the presence of the Great Men, in the Refectory at Westminster; desired a Pecuniary Aid; to whom it was answered, that they would treat about that matter; and the Great Men retiring out of the Refectory, the Arch-Bishops, Bishops, Abbats, and Priors, met and treated by themselves. At length the Earls and Barons were asked, if they would unanimously consent to the Resolutions they had taken in answering and making provision for what had been demanded of them; who answered, That without the Common University they would do nothing. Then by Common assent there were elected on behalf of the Clergy, the Elect of Canterbury, the Bishops of Lincoln, Winchester, and Worcester; on behalf of the Laity Earl Richard the Kings Brother, Earl Bigod, Earl of Leycester, Simon Montfort, and Earl William Marshall; for the Barons, Richard Montfichet, and John Baliol, and the Abbats of Bury, and Rainsay, that what they twelve should resolve on, should be recited in Common; and that no form should be shewn to the King by Authority of the twelve, which had not the Common assent of all.

An. 1244. 28 Hen. 3.

The Common University.

The Commons not comprehended in the Common University.

In this Parliament the several orders of men that were the constituent parts of it, were only the Bishops, Abbats, and Priors, the

the **Earls** and **Barons**, and *all these* put together, were termed the **Common University**, which is more comprehensive than *University* simply taken. If the **Commons** as at this day represented, had been there, we must have had some mention of them one way or other, or of a **Committee** of them, as well as of the **Committees** of the *other Orders*, which made up the *general Committee* of *twelve*, for it is **plain** here beyond doubt, that they were not comprehended in the **Common University**.

A

Fol. 981. n. 50.

The Noble-
men of the
Kingdom
with the King
at *Christmas*.

The same Author reports, that *An. Dom. 1259. fuit Rex Henricus ad Natale Domini Londini, ubi magna sollicitudine tractatum est inter nobiles Regni*. King Henry was at *Christmas* at London, where the **Noblemen** of the **Kingdom** treated with great sollicitude, how keeping to their resolution they might satisfy the desire of *Richard King of Almaine*, which was very great and earnest to come into *England*.

B

Ibid. fol. 682.

n. 50.
Feast of St.
Hillary, Jan.
13.

The Council
of the Baro-
nage, what it
was.

(a) Peter of
Savoy was the
Queens Uncle,
and Earl of
Richmond.

Paris fol. 559.
n. 30.

(b) John Man-
sell was the
Kings Clerk,
Chancellor of
St. Pauls, and
his principal
Councillor.
Par. fol. 616. n.
40. 859. n. 30.

A little afterwards the same persons, *Circa festum Sancti Hillarii habito Concilio Communi & deliberatione diligenti super adventu Regis Almannie Richardi in Angliam Nuntios Solemnes in Occursum suum destinarunt, videlicet Episcopum Wigorniensem, Abbatem Sancti Edmundi, Petrum de Subavia, Johannem Mansell; ut Idem Rex ipsos certificaret de causâ adventus tam subiti tamque inopinati, & de morâ suâ in Angliâ. Comes autem Legzie Simon, non sine multorum admiratione, in partibus adhuc transmarinis morabitur, undè in magnâ parte fuit Concilium Baronagii mutilatum*. That is, about the Feast of St. Hillary, upon a *Common Consult*, and great deliberation, concerning the coming of *Richard King of Almaine* into *England*, they sent *Messengers* or *Ambassadors* to meet him. That is to say, the *Bishop of Worcester*, the *Abbat of St. Edmundsbury*, (a) *Peter of Savoy*, (b) and *John Mansell*, to expostulate the cause of his so sudden and unexpected coming, and to understand how long he would stay. But *Simon Earl of Leycester*, to the admiration of many, stayed yet beyond Sea; by which means the **Council** of the **Baronage** was not compleat.

C

D

Ibid. fol. 983.
n. 30.

And of these very **Ambassadors** or **Solemn Messengers** it was, that the *Historian* says, *Nuntius solemnibus a Communitate Anglie destinatis Ipse Rex Almannie, nimis torvo vultu & verbis minacibus Respondet, &c.* The *King of Almaine* answered the **Messengers** or **Commissioners** sent by the **Community** of **England** with a stern countenance, and threatening words, &c.

E

The Noble-
men the Com-
munity of
England.
Paris ut supra.

By these passages it is very clear and evident, that the **Noblemen** of *England*, and **Council** of the **Baronage**, were the **Community** of *England*. For the persons that met at *London*, and treated about this *Case*, and chose and sent the four **Messengers**, were the **Noblemen** of *England*, and the **Council** of the **Baronage**; and yet it is said these very **Messengers** were sent from the **Community** of *England*; so that the **University** of the **Baronage**, the **Community** of *England*, and **Common University**, did signify the same thing, and were sometimes taken for a great appearance of the **Lay Nobility** only, sometimes for all the **Orders** of the **Nobility** put together.

F

And

And further the *Communitas Anglie* in this very place is called or explained by *Nobiles Anglie*, and *Barones Anglie*, the *Noblemen* or *Barons* of *England* no less than four times within less than forty Lines next following upon the same side of the Leaf.

Ibid.

To this may be added that our Author hath very ill luck that there cannot be found any one *Commoner* as at this day understood, that was a *Commissioner* or *Messenger* employed in any publick business mentioned in, or that was a *Witness* or *Party* to any of the *Records*, *Publick Letters* or *Instruments* he hath cited.

See more of this matter in the *Glossary* in the word *Communitas*, &c.
P. 115.

He produces two instances more, in the Reigns of *Edward I.* and *Edward III.* to shew that *Parliaments* since *Henry III.* have sent Letters to the *Pope*, when he attempted to invade the Rights of the *Crown*. But these I pass by, being beside the Controversie, and beyond the time limited for the decision of it; seeing it is without doubt, that then the *Commons* were a *Third Estate*, as at this day, or as he call them, an *Essential* or *constituent* part of the *Parliament*, yet doubt not but if it were any thing to the purpose, to make it appear, that the whole *Community* of the *Kingdom* of *England*, for which the *Barons* there named set to their *Seals*, to that *Letter* directed to the *Pope*, 12 Febr. 29 Ed. I. 1300, at *Lincoln*, were the *Community* of *Barons* only. There being at that time many *Earls* and *Barons* whose *Seals* are not put to that Instrument.

I will conclude this Answer to his third Observation with the same words (as near as I can) our Author concludeth the Observation it self.

Certainly the *difference* and great *variety* of words and phrases, by which both the ancient *Historians* and *Records*, have in their several ages and times expressed and denoted the *Communia Concilia Regni*, or *Parliaments*, and their constituent parts being not well observed and considered by our late Author (who understands them as if they signified what the word *Parliament* now doth) hath endeavour'd to impose upon our *Historical Faith*, and propagate to posterity many palpable and gross Errors, from whence great and unkind *clashings*, and *diversities* of *Opinions* amongst men may have their source and spring, nay even between *Prince* and *People*.

P. 121, 122.

The Historical Faith of the People abused by the Author.

The

The Appendix Considered.

Page 129.

IN this *Appendix* he endeavours to clear a material Objection, as he says *offered* him by some *Friends*, which is, That the **Commons**, or People of *England*, were from the time of the **Norman Conquest**, represented by such as held of the *King* in *Capite*, until the 49 of *Hen. 3.* and then by two *Knights* for each County, and certain *Burgesses* for several *Burghs*, and *Barons* for the *Cinq-Ports*.

'Tis probable the Commons were not at all represented before 49 *H. 3.* Pag. 1, 2, 3, and 74.

For my part I cannot see how this comes to be an Objection, if the *Commons*, as now understood, were not at all represented (as for ought I can find, I think they were not.) He hath undertaken to prove, that the **Commons** of *England* were represented by *Knights*, *Citizens*, and *Burgesses*, Elected and sent by those they represent, and that the **Commons**, or *Freemen* of *England*, as now called, and distinguished from the *Lords*, were an *Essential* and *Constituent* part of the *Great Councils* and *Parliaments*, during the *Brittish*, *Saxon*, and *Norman Governments*, which, if he had done, he need not have heeded what had been said about their being represented by *Tenents* in *Capite*, nor can he ever prove they were represented the same way he affirms, by disproving, they were represented by the *Tenents* in *Capite*.

The Authors Conceit of *Barones Regis*, & *Barones Regni*, p. 130.

But this was not so much intended for an *Objection*, as to Usher in an *Opinion*, and *Conceit* of his own (which may be of very dangerous Consequence to the *Nation* and *Government*;) that there anciently were **Barones Regis**, and **Barones Regni**, and so *milites & libere Tenentes de Rege*, & *Milites & Libere Tenentes de Regno*; a sort of **Barones Milites**, and *Free Tenents* certainly he means (or nothing) that were *sui juris*, and had no dependency upon the *Government*.

Page 131.

His Pretence for that Fancy.

First, To make this *Fancy* plausible, he tells us, that the *Ancient Chronicles* of the *Kingdom*, say, that both before and after the *Conquest*, the *Kings* of *England* held their *Court* three times in every year, at *Easter*, *Whitsontide*, and *Christmas*; And then the *Crown* was attended with most of those *qui de Rege tenuerunt in Capite*, which held of the *King* in *Chief*. This was called *Curia Regis*, the *Kings Court*, where matter of right between the *Kings Tenents* was determined. But, under favour (saith our Author) this was not the *Commune Concilium*, or *Parliament*, as we now call it. But when they, or *Contemporary Historians* take notice of the meeting of the *Commune Concilium Regni*, or *Parliament*, then their Expressions alter, and say, that *Rex ascrivit*, *Ordericus Vitalis*, fol. 680. *Ex præcepto Regis convenerunt*, *Eadmerus*. *Rex Sanctione sua adunavit*. *Flor. Wigorn.* and many such like Expressions, which shew, it was not held *ex more*, of *Custom*; yet true it is, *Kings* did often *Convene*, or *Summon* the *Common-Council* of the *Kingdom* at one of the said Feasts, being a great *Conveniency* to the *Tenents* in *Capite*.

It is a Precarious Whimsy.

The whole, as he hath delivered it, is precarious, and he cannot evince the truth of it from any good Authority ; And the contrary to it, that is, that the **Barones Regis & Regni**, were the same persons ; and that usually the **Barons**, of what quality soever, did repair to the *Kings Court* at **Christmas**, **Easter**, and **Whitsunday**, doth appear to have been the Custom of those times he speaks of, from these Testimonies of Ancient Historians.

It is a Precarious Whimsey.

A

In a *Chirograph*, or *Chart* of Confirmation of the Lands to *Croyland Abby*, by King *Edgar*. *Sancitum est hoc in Anno Dominice Incarnationis 966 presentibus Archiepiscopis, Episcopis Abbatibus, & Optimatibus Regni mei subnotatis* ; This was done in the year of our Lords Incarnation 966, in the presence of the Arch-Bishops, Bishops, Abbats, and Chief Men of my Kingdom undernoted ; And then, after the King, in the Subscription, follows the Arch-

Irgulph. fol. 501. b. n. 30, 40.

B

Bishops, Bishops, Abbats, Dukes, and Thaners. And in the same year King *Edgar* confirmed the Priviledges of that *Abby* by *Charter* ; *Privilegium illud Sancitum est in presentia Regis Edgari Prelatorum Procerumque Suorum, Anno Dominice Incarnationis 966, apud London Collectorum*. That Priviledge, or Charter of Priviledges was confirmed in the presence of *King Edgar*, his *Prelats*, and *Noblemen* met at *London*, in the year of our Lord 966. And then after the King, in the Subscription, the same persons follow, and in this *Chart* are called *His Prelats*, and *Noblemen*, which in the former *Chart* were called, the *Bishops*, *Abbats*, and *Chief Men* of *His Kingdom*.

Ib dem, fol. 502. a. n. 30, 40.

C

Celebratum est Concilium in Ecclesia Beati Petri in occidentali parte juxta Londoniam sita communi consensu Episcoporum Abbatum & Principum totius Regni & huic conventui affuerunt Primates regni utriusque Ordinis. There was a Council celebrated at *Westminster*, by the Common consent, of the *Bishops*, *Abbats*, and *Princes* of the *Kingdom*, and at this Meeting were present the *Prime Men* of the *Kingdom* of both *Orders*. In this Council the *Bishops* and *Barons* are called the *principal men* of the *Kingdom*, yet were the *Kings Barons*, they all held of him *in Capite* ; and so did the *Temporal Chief Men* of the *Kingdom*.

Eadmer, fol. 67. n. 20.

D

E

In *Mid-Lent*, *Hen. 1.* in the Third of his Reign went to *Canterbury*, to prevail with the *Arch-Bishop Anselme* to desist from maintaining the *Popes Usurpations* upon the Rights of the *Crown*, which His Predecessors had always enjoyed, and to urge him to undertake a Voyage to *Rome*, and to endeavour to obtain from the *Pope*, that he should quietly enjoy what were his *Ancestors Rights*. The *Arch-Bishop* desired the further Consideration of this Matter might be deferred until *Easter*, that he might make his *Answer*

Ibidem, fol. 69. n. 40. Anno Domini 1102.

F

according to the *Advice* of the *Bishops* and *Chief Men* of the *Kingdom*. *Igitur in Pascha curiam venit, Communis Concilii vocem unam accepit, equum scilicet fore illum tantæ rei gratiâ viæ laborem debere, non subterfugere*. He came therefore to Court at *Easter*, and received the Unanimous Vote of the *Common Council*, that in so great a matter it was not fit for him to wave the Journey, though troublesome. What *Common Council* was

Anno Dom. 1103.

this of the *Bishops* and *Chief Men* of the *Kingdom* that *Anselm* referred himself in Mid-Lent to be held at *Easter*? Was it not *ex more*, by Custom? He cannot find in *Eadmer* any *Summons* to it, neither *Rex ascivit*, *præcepto Regis convenerunt*, nor *Rex Sanctione suâ adunavit*.

Ibidem, fol.
90. n. 40.

Again, *adunatis*, without either (*præcepto Regis*, or *Sanctione*) *ad Curiam ejus in Balcha Terre Principibus*; the *Princes* or *Chief Men* of the *Nation* met at his Court at *Easter*.

A

Ibidem, fol.
91. n. 40.

And Note, there were *regni Episcopi* as well as *regni Barones* & *Principes*; if they signified any more, than other *Bishops*, or if any distinction could, or ought to be made by that Term. *C pit Anselmus coram Rege regnique Episcopis, atque Principibus exigere à Gerardo Archiepiscopo Eboracensi professionem de suâ obedientiâ, &c.* *Anselm* began to exact before the *King* and *Bishops* of the *Kingdom* and *Princes*, or *Chief Men*, the profession of Obedience from *Gerrard Archbishop* of *Tork*.

B

Ibidem, fol.
94. n. 50.

In another place *adunatis* (without either *Præcepto*, or *Sanctione Regis*) *ad curiam suam in Solemnitate Pentecostes apud Londoniâ Cunctis Majoribus Regni*. All the *Great Men* of the *Kingdom* met at the *Kings Court* at *London* in the Solemnity of *Pentecost*.

C

Ibidem, fol.
102. n. 50.

Further, *In Festivitate Pentecostes Rex Hen. Curiam suam Londoniâ in magna mundi gloriâ celebravit & diviti apparatu, qui transactis Coronæ suæ festivioribus diebus, cepit agere cum Episcopis & regni Principibus, &c.*

In the *Feast* of *Pentecost* *King Henry* held a splendid *Court* in great worldly glory at *London*, who when the days of Feasting were past, began to Treat with the *Bishops* and *Great Men* of the *Kingdom*.

D

Ibidem, fol.
105. lin. 3.

It was the Custom in *Germany* and *France*, to hold Great Councils at those times, and therefore the Ancient Historians tell us, where the Emperors and Kings of *France* always were at *Christmass*, *Easter*, and *Whitsunday*.

Yet further, the same Author, *In subsequente Nativitate Domini Christi Regnum Angliæ ad Curiam Regis Lundoniæ pro more convenit, & magna Solemnitas habita est atque sublimis*. In the subsequent *Nativity* of our Lord *Christ*, the *Kingdom* of *England*, according to Custom, met at the *Kings Court* at *London*, and there was a great and high Solemnity. This *Instance* is full in all points. Here was the *Kingdom* of *England*, that is the *Baronage* or *Univerſity* of *England*, (for, as was noted before out of *Bracton*, the *Kingdom* consisted of *Earldoms* and *Baronies*) who met, according to Custom, at the *Kings Court*. And hence 'tis manifest, that at those times the Common Council of the *Kingdom* was held; from this also, and from the former Instances, 'tis most evident, that the *Barones*, *Principes*, *Optimates*, & *Majores Regni*, did, at those three Great Feasts, *pro more*, according to Custom, frequent the *Kings Court*.

E

Fol. 658. n. 40.

Fol. 659. li. 1.

Mat. Paris likewise says, *In die Pentecostes Dominus Rex Anglorum Londini festum tenens magnum & serenissimum, Tunc compositâ per Regni Univerſitatem Eleganti Epistolâ, &c.* In the day of *Pentecost* the *King* of *England* kept a most splendid *Feast* at *London*,

F

London, then there was an Elegant Epistle compos'd by the University of England, &c. This was about the Popes Exactions, as hath been before delivered; and Henry the Third in his Letter to the Pope, calls the same Persons, *Magnates Anglie*, which in his Letter to the Cardinals, about the same matter, he calls *Magnates Noſtri*, as the Reader may see in the former Citation of them.

Magnates Anglie & Magnates Noſtri, the Kings Great Men the same Persons.

A

Perhaps it will be Answered, that he hath anticipated and evaded all this, by saying, it is true, Kings did often Convene, or Summon the Common Council of the Kingdom at one of the said Feasts, being a great conveniency to the Tenents in *Capite*; It may be, upon extraordinary business, it might be so, when the Occasion was great, and he desired a great and full Appearance, they might receive Summons at those times. But then I must desire him to shew

Page 132.

B

us the Summons to any of these Common Councils, which when called at other times, are most constantly mentioned in this Author, and I must know of him what he will say to that *pro more conventu* which is spoken of the most General Council, when the Kingdom of England met at the Kings Court.

C

But it was, he says, a great Conveniency to the Tenents in *Capite*, to have these Common Councils then appointed, as if there were Earls and Barons then in England, that did not hold their Earldoms and Baronies, and Estates in *Capite*. He grants, that Tenents in *Capite* were the Kings Barons, Militers, Magnates, &c. Upon this we will joyn Issue. And I do affirm (without bringing Proofs, which are infinite in this Case) that all the Bishops, Earls, and Barons of England, did hold their Lands, Earldoms, and Baronies of the Crown, or which is all one, of the King, as of his Person, and that was in *Capite*.

All the Bishops Earls, and Barons of England were Tenents in *Capite*.

D

William the Conqueror divided most of the Lands in England amongst his great Followers, to hold of him, he made Earls and Barons such as he pleased: They and their Descendants held upon the Terms of the first Grant, which was, to find so many Horse and Arms, and do such and such Services; both Titles and Lands were forfeitable, and for Treason or Felony they did forfeit them to the King, or for want of Heirs they Escheated to him; and for these Lands and Titles, they Swore Fealty to the King, and did him Homage; and became his Men from that day forward of Life and Limb, &c. and every Bishop, Earl and Baron of England was in these Circumstances, and held of the King after this manner.

Doomesday-Book in every County.

The Barons Lands were Forfeitable, and escheated to the King.

E

They did Homage, and Swore Fealty to the King.

F

Other Lands were given to other Persons for meaner Services; as to his Woodwards, Foresters, Huntsmen, Falconers, Cooks, Chamberlains, Goldsmiths, Bayliffs of Mannors in his own hands, and many other Officers, which in Doomesday are called *Terra Taniorum Regis*, and sometimes *Servientium Regis*; and I doubt not, what ever the notion of Petit Serjeanty is now, but that originally this holding of Lands was the true Tenure; not but presenting the Lord with a Bow, an Arrow, a pair of Spurs every year, &c. might also be called Petit Serjeanty, though not so properly as the other.

Land given by the Conqueror to ordinary Persons, or Servants.

Sub feudata-
ries.
*Gerv. Tilb. l. 2.
c. 4.*

Ibid. c. 15.

Titular Barons
the great Te-
nants of great
Subjects.
*Seld Tit. Hon.
fol. 570.
Dugd. Warw.
Antiqu. f. 303.*

*Monast. vol. 1.
fol. 106. n. 30.*

No such thing
as *Tenura de
Regno.*

Tenents in Ca-
pite the Kings
Barons.

See *Glossar.* in
the words
Knights-Fees,
&c.
Most of the
Lands in Eng-
land in the
possession of
Tenents in
Capite.

Whoever held of the *Tenents in Capite*, by Mean Tenure in Military Service, held of those Barons, or *Tenents in Capite* by the same, or the like Tenure that themselves held of the King; and these **Sub-feudataries**, or *Sub-altern Feudataries* (as the *Feudists* call them) the King antiently might take any of them to his Service, if he would, and also distrain in their Fees for his Services, if the Lord *Paramount* performed them not, yea, and upon the Villain or other Lands that held of him. We never had any Baronies held by mean Tenures here in *England*; this, if he denies, he must deny all History, and all our Antient Law, and Law-Books; and if he grants it, he must confess, that every *Baron was a Tenent in Capite*, and by his own concession he must then be the Kings Baron, or **Baro Regis**.

Nominal and Titular Barons there were many, such were great Tenents to great Subjects. *Henry de Novo Burgo* Earl of *Warwick*, confirmed little *Chesterton* and *Hill* in the County of *Warwick-shire* to the Monastery of *Abendon*, in the presence of his Barons, of which *Richard Fitz-Osborn*, and *Thurstan de Montfort* are particularly named; the last of which held ten Knights Fees of *William* Earl of *Warwick* Grand-child to *Henry*. *Robert Fitz-Haymon* Earl of *Gloucester*, gave the Effart or Wood that had been stubbed, between *Marlowe* and *Hamstede* to the Abbey of *Abendon*, as it had been designed by his Barons. Several other great Subjects there were, who had Tenents that held five, six, seven, eight, or ten, or more Knights Fees under them, who had the Name and Title of Barons, as the Lord of the Isle of *Wight* in that Island, &c.

And further, I desire this Gentleman to shew in his next, if he can, where there was ever any such kind of Tenure, as *Tenura de Regno*: Whether there was ever any Man that held an Estate *de Regno*? Whether Forfeitures or Escheats were to the Kingdom? And whether Fealty was sworn, or Homage done to the Kingdom? Or whether an Earl was Invested, or Girt with the Sword of the County by the Kingdom, or whether the Antient Ceremonies, used at the Creations of Earls and Barons, were done by the Kingdom. Thus all the Barons of *England* held of the King, and thus all these things were performed and done to our Antient Kings, and by them which are most manifest Notes of the Kings Jurisdiction over the Barons, and that they were his *Tenents in Capite*, and by consequence his Barons, which our Author will not deny; of which *Tenents in Capite*, the Earls, and Great Barons always created by Investiture of Robes, or other Ceremonies, were summoned by particular Writs, and the other *Tenents in Capite* ever since the Seventeenth of King *John*, were summoned by one Common Writ, directed to the Sheriff of the County.

And of these *Tenents in Capite*, the greatest part of the Lands in *England* were holden by *Sub-Tenents in Military-Service*: But upon any Warlike Expedition, the King only summoned such as held of him *in Capite*, to do him Service in Horse and Arms, according to the number of Fees they held immediately of him, to whom, if they served in Person, and performed their whole Service by *Servientes*, whether Menial Servants, or Stipendiary Horse-men, (and either

out

out of gain would not call, or out of favour spared their Tenents)
 (a) the King alone, by his Prerogative, and by virtue of his Original Grant of Fees, granted them Warrants to receive Scutage and Aid of all their Tenents proportionable to the time they had been in the Kings Service, sometimes half a Mark, sometimes ten Shillings, sometimes one Mark, sometimes two or three Marks. &c. So that they were immediately accountable to the King, for the Fees they held of him, and their Tenents to them for their Fees they held of them. And that it was so, it is very manifest from the following Records.

Rex Vicecomiti Gloucestr. Salutem, precipimus tibi quod habere facias dilecto nobis Sahero Comiti Winton. auxilium de Militibus suis in Balliva tua, scilicet de Scuto tres Marcas, ad filium suum primogenitum Militem faciendum, & similiter rationabile auxilium de libere tenentibus suis ad idem.

Eodem modo scribitur omnibus Vicecomitibus in quorum Ballivis idem Comes terras habet; Teste meipso apud Stoke-Episcopi tricesimo die Junii.

The King to the Sheriff of Gloucester-shire, Greeting, We Command you that you cause our beloved Saher Earl of Winchester, to have Aid of his Knights or Military Tenents in your Bailiwick, that is, three Marks of every Fee, to make his eldest Son a Knight; and likewise a reasonable Aid of his Free Tenents for the same.

In the same manner the King wrote to all the Sheriffs in whose Bailiwicks the same Earl had Lands; Witness our Self at Bishops-Stoke, the thirtieth day of June.

Rex Vicecom. Northampt. salutem. Scias, quod concessimus dilecto & fideli Avunculo nostro W. Com. Sarum, quod habeat Scutagium suum de Militibus suis, qui de eo Tenent in Balliva tua pro exercitu nostro Walliæ in quo nunc est per preceptum nostrum, scilicet de Scuto duas Marcas. Et ideo tibi precipimus quod prædictum Scutagium ei habere facias ut prædictum est T. R. &c. apud Winton. 19. die Augusti.

Eodem modo scribitur Vicecomitibus. Midd. Lincoln. Oxon. Wilts. Dorf. Somersf.

Eodem modo scribitur pro Hamone Peché, Vicecomitibus. Cantebr. Norf. & Suff. Lincoln. Essex, Salop, Berks.

The King to the Sheriff of Northampton-shire, &c. Know, that we have granted to our Beloved and Faithful Uncle W. Earl of Salisbury, that he may have his Scutage of his Knights or Military Tenents, that hold of him in your Bailiwick, for his now being in our Army against the Welsh by our Command; that is, of every Fee two Marks, and therefore we Command you, that you cause him to have the foresaid Scutage. Witness the King, &c. at Winchester the nineteenth of August.

(a) Claus. 16. Johannis, m. 24. Dorf. Claus. 5 Hen. 3. Dorf. Claus. 7 Hen. 3. m. 4. Dorf. Mat. Paris, fol. 322. l. 5. The King by His Prerogative granted Ibidem. Scutage and Aid to his Tenents in Capite. Cl. 15. Joh. m. 9. Aid granted by the King to his Tenents in Capite from their Tenents.

Cl. 7. H. 3. m. 4. Dorf. Scutage granted by the King to his Tenents in Capite from their Tenents.

After

After the same manner the King wrote to the Sheriffs of *Middlesex, Lincolnshire, Oxfordshire, Wiltshire, Dorsetshire, and Somersetshire.*

After the same manner the King wrote for *Hamon Peche*, to the Sheriffs of *Cambridgeshire, Norfolk and Suffolk, Lincoln, Essex, Salop, and Berkshire.*

Ibidem.
An Aid granted by the Kings Prerogative to his Tenents in Capite, from their ordinary Freeholders.

Rex Vicecomitibus Midd. salutem. Scias quod concessimus W. Com. Sarum quod habeat rationabile auxilium de liberis hominibus suis in Balliva tua ad se sustentandum in servitio nostro in exercitu Walliæ in quo nunc est per preceptum nostrum & ideo tibi precipimus quod prædictum auxilium ei habere facias ut prædictum est T. ut supra.

Eodem modo scribitur Vicecomitibus Hereford, Wilts, Somerset, & Dorset, Southampton, Bedford & Bucks, Cantebr. & Huntington, Essex & Hertford, Lanc. Northampt. Norf. & Suff. Oxon. Gloucest. Wigorn. Heref. Suffex, pro Com. W. Mar. tam de Scutag. quam de auxilio habendis, &c. T.R. apud Westm. 23. die Augusti.

Eodem modo scribitur pro Hamone Peche de auxilio habendo Vicecom. Cantebr. Essex, Lincoln, Lanc. Norf. & Suff.

Eodem modo scribitur pro W. de Bello Campo, de Scutag. habendo Vicecom. Midd. Rotel. Hertford, Surr. Bedf. Bucks, Hunt. Berks.

Eodem modo, &c. Vicecom. Nott. pro Waltero de Clifford, de Scutagio suo habendo.

Ibidem.
All Normans. Scutage and Aid granted by the Kings Prerogative to his Tenents in Capite from their Tenents.

Eodem modo scribitur separalibus Vicecom. pro Scutag. & auxilio habendo pro W. Fil. Warini, Hugone de Mortuo Mari, Roberto de Bello Campo, Warino de Monchensey, Phillippo de Columbariis, Hen. de Brayosa, Mauriti. de Gant, Will. de Gamages, W. Briwer Jun. Stephano de Ebroicis, Comite H. le Begod, Hugh de Kilpeck, J. Episcopo Bathon. W. de Maundevill, Com. Essex, Johanne de Boterell, Hen. de Tracy, Walt. de Baskervill, W. de Kantilupo, Rob. de Novo Burgho, G. Com. Cloucest. Rob. de Curtenay, Rob. de Mucegros, Rob. de Vallibus, Walt. de Escot.

The King to the Sheriff of *Middlesex*, &c. Know ye, that we have granted to *W. Earl of Salisbury* a reasonable Aid of his Free-men in your Bailiwick to support him in our Service in the Army against the *Welsh*, in which he now is by our Command, and therefore we Command you to cause him to have the foresaid Aid; Witness as above.

After the same manner the King wrote to the Sheriffs of *Wilts, Somerset and Dorset-shires, Bedford and Buckingham-shires, Cambridge and Huntington-shires, Essex and Hertford-shires, Northampton-shire, Kent, Suffex, Norfolk and Suffolk, Oxford, Gloucester, Worcester, and Hereford-shires*, for *William Earl Marshall*, that he might have his Scutage and Aids: Witness the King at *Westminster* the 23. of *August*.

After

The Rights of the Commons Asserted.

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After the same manner, &c. for *Hamon Peche*, for his Aid to the Sheriffs of *Cambridge-shire, Essex, Lincoln-shire, Kent, Norfolk* and *Suffolk*:

In the same manner, &c. for *W. Beauchamp* for his Scutage to the Sheriffs of *Middlesex, Roteland, Hertford-shire, Surrey, Bedford, Buckingham, Huntington* and *Berk-shires*.

A

In the same manner, &c. to the Sheriff of *Nottingham-shire* for *Walter de Clifford* to have his Scutage.

In the same manner the King wrote to the several Sheriffs for Scutage and Aid for *W. Fitz-Warin, Hugh Mortemer, Robert Beauchamp, Warin de Monchensey, Phillip de Columns, Hen. de Brayose, Maurice de Gant, Will. de Gamages, Will. Briwer Junior, Stephan D'euerenx, Earl H. Bigod, Hugh de Kilpeck, J. Bishop of Bath, W. de Mandevill, Earl of Essex, John de Boterell, or Botereaux, Hen. de Tracy, Walter de Baskervill, Will. de Cantilupe, Robert de Newborough, G. Earl of Gloucester, Robert de Courtney, Robert Mucegros, Robert de Vans, Walter de Escot*.

B

Rex Vicecomitibus Wigorn' Salutem, Quia dilectus & fidelis noster Hugo le Dispenser, per preceptum nostrum fuit cum dilecto consanguineo & fidei nostro Edmundo Comite Cornubiæ, qui moram traxit in Anglia, pro conservatione pacis nostre Anno Regni nostri decimo, nobis tunc existentibus in exercitu nostro Walliæ, tibi precipimus quod eidem Hugoni facias habere Scutagium suum de feodis Militum, Que de eo tenentur in Balliva tua, videlicet quadraginta solidos de Scuto, pro exercitu nostro predicto, & hoc nullatenus omittas. Teste Edmundo Comite Cornubiæ Consang. Regis apud Westm. 13. die Aprilis.

C

Consimiles Litteræ diriguntur Vicecomitibus, Leicest. Eborum, Lincoln, Staff. Wilts, Southt' Surr. Bucks, Essex, North. Oxon, Berks, Norf. Suff. Rotel. & Justic. Cestr. T. ut supra.

D

The King to the Sheriff of *Worcestershire, &c.* Because *Hugh Dispenser* by our Command, was with our Cousin-German *Edmund Earl of Cornwall*, who stay'd in *England* for the Conservation of our Peace, in the Tenth year of our Reign, we being then in our Army against the *Welsh*, we Command you, that ye cause the same *Hugh* to have his Scutage of the Knights or Military Fees which hold of him in your Bailiwick, that is, forty Shillings of every Fee, by reason of our Army aforesaid; and this you shall in no wise omit, witness *Edmund Earl of Cornwall* the Kings Cousin at *Westminster* the 13th day of *April*.

E

The like Letters were directed to the Sheriffs of *Leicester, York, Lincoln, Stafford, Wilts, and Southampton-shires, Surrey, Essex, Norfolk and Suffolk, Buckingham, Northampton, Oxford, Berk, and Rutland-shires*, and to the Justiciary of *Chester*, witness as above.

F

Rex Vicecomitibus Eborum salutem, Quia dilectus & fidelis noster Henr. de Lacy Comes Lincoln' non sine magnis sumptibus & expensis, ad Communem

D. monte canisio.
De Brucra.

Ex. Rot. Scutag incipien. Anno 10. Ed. 1. & continuat. usq; Annum. 19. De An. 15. The King by his Prerogative Grants Scutage to his Tenants in Capite from Tenants though not in the Army, and otherwise employed by the King.

Rot de Scutag. de Anno Regni Reg. E. fil. Reg. Hen. 3. m. 2.

The King accepts Civil employment beyond Sea for Military Service, and grants his Tenant in Capite Scutage of his Tenents, as if he had been actually in his Service.

Communem utilitatem Regni nostri fuit in obsequium nostrum per preceptum nostrum in partibus Franciæ pro Reformatione pacis inter nos & Regem Franciæ Tempore quo eramus in exercitu nostro Scotiæ anno videlicet regni nostri 31. Quod quidem obsequium loco servitii sui quod tunc nobis fecisse debuerat acceptamus, tibi præcipimus quod eidem Comiti, habere facias Scutagium suum de feodis Militum, quæ de eo tenentur in Balliva tua videlicet quadraginta solidos de Scuto pro exercitu nostro prædicto, & hoc nullatenus omittas, T. R. apud Westminster 6. die April.

Consimiles Literas habet idem Comes Vicecomitibus subscriptis, videlicet Wilts, Bedford, Bucks, Somers. Dorset, Glouc. Norf. Suff. Hertford, Leic. Lanc. Nottingh. Derby, North' Midd. Cantabr. Oxon. Berks, T. ut supra.

The King to the Sheriff of *Yorkshire*, Greeting, Because our Beloved and Faithful *Henry de Lacy* Earl of *Lincoln*, not without great Costs and Charge for the common Profit of the Kingdom, was in our Service in *France* by our Command, for treating a Peace between us and the King of *France*, at the time when we were with our Army in *Scotland*, in the one and thirtieth year of our Reign, which employment we accept instead of his Service, he ought then to have performed to us. We Command you to cause the said Earl to have his Scutage of the Knights Fees which are holden of him in your Bailiwick, that is forty Shillings of every Fee for our Army aforesaid, and this you shall in no wise omit: Witness the King at *Westminster* the sixth day of *April*.

The like Letters the said Earl had to the Sheriffs of *Wilt, Bedford, Buckingham, Somerset, Dorset, Gloucester, Hertford, Leicester, Nottingham, Derby, Northampton, Cambridge, Oxford, Berk and Lancashire, Middlesex, Norfolk and Suffolk*: Witness as above.

Rex Vicecom' Eborum Salutem, Quia dilectus & fidelis noster Henricus de Percy fuit nobiscum per preceptum nostrum in exercitu nostro Scotiæ Anno Regis nostri 31. Tibi præcipimus quod eidem Henrico habere facias Scutagium suum de feodis Militum, quæ de eo tenentur in Balliva tua, videlicet quadraginta solidos de Scuto pro exercitu nostro prædicto, & hoc nullatenus omittas, T. R. ut supra.

Consimiles Literas habet Idem Henricus Vicecomitibus subscriptis, videlicet Lincoln, Nottingh. Derby, Cant. Huntingd. Norf. Suff. Salop, Stafford, T. ut supra.

The King of his special Grace, grants Scutage to the Executors of a deceased Tenant in Capite.

Consimiles Literas habent Executores Testamenti Johannis de Warrenna quondam Comit. Surr. defuncti de habendo Scutag. de feod. Militum quæ de ipso Comite Tenebantur die quod obiit de Gratia Regis speciali, Vicecomitibus Surr. Suffex, Essex, Hertf. Bucks, Lincoln, North. Ebor. T. R. apud Kenington 23. die Maii per Breve de privato Sigillo.

The Executors of the Testament of *John Warren* late Earl of *Surrey* deceased, had the like Letters, that by the Kings special Grace, they might have Scutage of the Knights Fees, which held of the Earl at the time of his Death, directed to the Sheriffs of *Surrey, Suffex, Essex, Hertford, Buckingham, Lincoln, Northampton and Yorkshire*: Witness the King at *Kenington* the 23th of *May*, by Writ of Privy-Seal.

Consimiles

Consimiles literas habent subscripti Vicecomitibus subscriptis, Prior de Coventry Qui finem fecit, &c. habet Scutagium suum in Com. War. Leycest. Northt. Glouc. Wigorn. T. R. apud Fynden 19 die Junii.

A *Abissa Shafton quæ finem fecit, &c. habet Scutag. suum in Com. Abbas de Shireburn Qui habuit Servitium suum, &c. habet Scutagium suum in Com. Dorset. & Devon. T. R. ut supra.*

B Thus it was for *Ayds*, and *Scutage-service*, but if it was for *Scutage* by *Grant* in Parliament, or as a *Tax* upon Lands by the common consent of the Nation, then the *Tenents* in *Capite* were the *Collectors* of that *Scutage* only, from their Military Tenents, and the *Writ* to the Sheriff was different from those of *Scutage Service*, though in substance, and according to the thing it self they were the same.

C *Rex Vicecomiti Suffex salutem. Scias Quod Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, & omnes alii de Regno nostro Anglie Qui de nobis Tenent in Capite, spontanea voluntate sua & sine Consuetudine, Concesserunt nobis Efficax Auxilium ad magna negotia nostra Expedienda, unde provisum est de Consilio illorum Quod habeamus de Feodis Militum & Wardis Quæ de nobis Tenent in Capite, Duas marcas ad predictum auxilium faciendum, & unde providerint reddere nobis unam medietatem ante festum Sancti Michaelis Anno Regni 19. & aliam Medietatem ad pasche Anno Regni nostri 20. Ideo Tibi precipimus Quod ad * Mandatum venerabilis patris R. Cicestren. Episcopi Cancellarii nostri, sine Dilatione Distingas omnes Milites & liberos tenentes, Qui de eo Tenent per Servitium Militare in Balliva tua, ad Reddendum ei de singulis feodis Militum, & Wardis Duas Marcas, ad predictum Auxilium nobis per manum suam Reddendum in Terminis predictis.*

Cl. 19 Hen. 3.
m. 8. Dorset.

* He was to give this Command as a Baron, and not as Chancellor, as appears by the *Sic Scribitur, &c.*

D *Sic scribitur pro aliis Episcopis Abbatibus Prioribus & Mignatibus.*

E The King to the Sheriff of *Suffex*, &c. Know ye that the *Arch-Bishops, Bishops, Abbats, Earls, Barons*, and all others of Our Kingdom which hold of Us in *Capite*, of their free Will and not of Custom, have granted to Us, &c. that we shall have two Marks of every *Knights Fee* and of *Wards* which hold of Us in *Capite* two Marks, &c. Therefore We Command you, That at the Command of R. Bishop of *Chichester* our Chancellor, you distrein all *Knights* and free *Tenents* that hold of him by *Military Service* in your *Bayliwick*, to pay him of every *Knights Fee* and of *Wards*, two Marks, toward the *Ayd* afore said to be paid to Us by his Hands, at the times afore said.

F I have said enough, I hope, to satisfy any sober Man of the Idleness of our Authors Fancy concerning *Barones Regis & Regni*, which were the same Persons; and also to shew that the King anciently by his *Prerogative*, and his Original Power and Right, reserved upon *Military Fees*, did Tax the *Military Tenents* of his Tenents in *Capite*, and their other ordinary free Tenents, and by his Writs caused them to pay unto them *Scutage* of both kinds, and Reasonable Aids.

I have said enough, I hope, to satisfie any quiet sober Man of the Idleness of our Author's Fancy, concerning **Barones Regis & Regni**, which were the same Persons.

Page 132.

Ibidem.

Hoved. f. 445.
b. n. 40.

Ibidem.

Our Author
adds to Hoveden's words.

From this Aery Ambuscade of **Barones Regis & Regni**, he retreats to his old Notion, and proceeds to shew, that the *Milites Tenentes qui de Rege tenuerunt in Capite*, together with the other Great Lords that held of the King, were not the *Partes constituentes*, and alone did compose and make up the *Totum*, the whole Body of the *Generale*, or *Commune Concilium Regni*, or Parliament, and begins with a Statute or Act of Parliament made in the time of *Richard the First*: The Assize (saith he) or Statute, being made *per Assensum & Concilium, Archiepiscoporum, & Episcoporum, & Abbatum, Comitum & Baronum, Militum & Libere Tenentium totius Regni*. He hath added these three words, **Et Libere Tenentium**, after the word *Militum*, they are not to be found in *Hoveden*, whom he cites in the Margin, but conceals the Folio and Number. 'Tis Natural to him, he cannot give over adding to, or leaving out of Records and Histories what he judgeth makes for his purpose.

What the Historian delivers in short, is this :

Ibidem.

See Præpositus in the Gloss.

After he hath enumerated the Articles of the ordinary Pleas of the Crown, he mentions the Forest Pleas, and says, *Præceptum est, ex parte Regis ut convenirent coram iis* (the Justices of the Forest which he there names) *per singulos Comitatus per quos ituri essent ad Placita Forestæ, Archiepiscopi, Episcopi, Comites & Barones, & omnes Libere Tenentes, & de unaquâque villâ præpositus, & Quatuor Homines ad audienda præcepta Regis*.

Hoveden, ut supra.

He is truly cited.

Milites here were Tenents in Capite, and no others: See Knights Fees and Milites in the Glossary.

Our Author makes all the Men of *England* Members of Parliament, p. 133, 134.

That is, it is commanded by the King, that in every County through which his Justices of the Forest should go, the Archbishops, Bishops, Earls and Barons, and all Free-Tenents, and of every Town the Chief Officer, and four others, should appear before them, to hear the Kings **COMMANDS**. And then immediately follows the Assize or Forest Laws, with this preamble, which our Author cites in part with his own Addition of (**et libere Tenentium**) after **Militum**. *Hec est Assiza Domini Regis, et hec sunt præcepta de Forestis suis in Angliâ facta per Assensum & Consilium Archiepiscoporum, Episcoporum, & Abbatum, Comitum & Baronum, & Militum totius Regni*. This is the Assize of the Lord the King, and these the Precepts concerning his Forests in *England*, made by the Assent and Advice of the Archbishops, Bishops, Earls, Barons, and Milites of the whole Kingdom; not a word of any **Free Tenents** in the Historian, which he hath here foisted in. But, Why did he not also bring in the Lords Bayliff, and the four other Men in every Town, as Consenters to, and Advisers in the making this Law? It would have fitted his Conceit better. For it seems to me he is not satisfy'd to have all the **Free-holders** in General, as he translates **Libere Tenentes**, meaning our ordinary Free-holders, as at this day, to be Essential and Constituent parts of the Parliament, but would bring in *Tag, Rag, and Long-Tail*, the whole Rabble to be Law-makers: And to make good this Giddy Notion, he makes use of

of the word *Fideles* in two several Records, *Rot. Pat. 6 Johannis, m. 2. dors.* & *Rot. Pat. 8, 9. Johannis, n. 3.* & *omnes de Regno qui dederunt Regi Quintam Decimam, &c.* in the last Chapter of *Magna Charta*, where he would have *fideles* & *omnes de Regno* signifie all Subjects in general.

P. 138.

A As for the word *Fideles* in the first Record, it is evident, they were the Kings Tenents in Capite only. *Rex, &c. Vicecom. Rotel. &c. Scias quod provisum est Comuni assensu Archiepiscoporum, Episcoporum, Comitum, Baronum & omnium fidelium nostrorum Anglie Quod Nobem Milites per totam Angliam invenirent decimum Militem bene paratum Equis & Armis ad defensionem Regni nostri, & quod illi Nobem Milites invenient Decimo Militi quolibet die iis ad Liberationem suam; & ideo tibi precipimus quod sicut teipsum & omnia tua diligis, provideas quod decimi Milites de Balivâ tuâ sint apud London à die Pasche in tres septimanas bene parati Equis & Armis, &c.* That is, the King to the Sheriff of Roteland, &c. Know, that it hath been provided by the Common Assent of the Archbishops, Bishops, Earls, Barons, and all our *Fideles*, or *Tenentes in Capite*, that nine Knights through all *England* should find a Tenth, well provided with Horse and Arms for the defence of our Kingdom, and that those Nine shall find the Tenth Knight every day two shillings for his Pay and Wages, and therefore we Command thee, &c.

Pat. 6. Johannis, m. 2. Dors.

Page 133. Fideles in this Record, Tenents in Capite.

C What could these *Fideles Angliæ* be but *Tenents in Capite*? What had other Men to do to give assent to this Law, that were not concerned in it, nor could be? The Nine Knights also that were to find a Tenth, were *Tenents in Capite*, and the Tenth also, for they would never have allowed so great pay to an ordinary *Miles* (Horseman) or *Tenant in Military Service*. Two shillings a day in the 6th of King John, Anno Dom. 1205. 465 years since, is at least Thirty shillings a day now: And therefore he that had this allowance, went forth in a good Equipage, and maintained (without doubt) several Soldiers, *Servientes*, or *Esquires* with it, and was a *Tenant in Capite*.

D 'Tis most probable likewise, that the *Fideles* mentioned in the other Record about *Romescot*, were *Tenents in Capite*. He only recites these words of it, *Universitas Comitum, Baronum, Militum & aliorum fidelium*, in the Record, *Fidelium nostrorum*; but the Difficulty in this Record is, that the *alique fideles* follow *Comites, Barones, & Milites*, and therefore they were the Kings ordinary Subjects, or other ordinary Free Tenents, and not *Tenents in Capite*. But *Mat. Paris* expounds the *alique fideles*, and helps us out of this difficulty.

Pat. 8.9 Johannis, n. 3.

E *Imminentibus autem & instantibus Calendis Julii* (saith he) *Rex Angliæ p^r Literas suas strictissime submonitis & convocatis omnibus Comitibus, Baronibus, Militibus & aliis qui ei Servitium Militare debebant, ut se convenienter in Walliam profecturi sequerentur.*

Paris, fol. 660. n. 20. An. Dom. 1245. Hen. 3. 29.

F The King of England on the first of July, by his Letters, straightly summoned and called together, all the Earls, Barons, and Knights, and others, that ought him Military Service, that they might follow him, being about to march into *Wales*. Here we find others that ought the King Military Service, and so were *Tenents in Capite*, be-

sides Earls, Barons, and Knights, the place is plain, and needs no further Exposition.

Fol. 693. n. 20.
Note, who the
Magnates
totius Regni.

Besides the *Univerſitas Comitum, Baronum, Militum, & aliorum fidelium noſtroꝝum* in this Record, were the ſame Perſons mentioned in the Record immediately before this, *Pat. 8, 9. Johannes, n. 2.* which were the *Archiepiſcopi, Epiſcopi, Abbates, Priores, & Magnates Regni*; The Archbiſhops, Biſhops, Abbats, Priors, and Great Men, who gave the King an Aid, &c. And who the *Magnates* were, *Mat. Paris* alſo informs us. *Convenerunt Londini Magnates totius Regni, Archiepiſcopi, Epiſcopi, Abbates, Priores, Comites & Barones, in quo Concilio Rex, &c.* The Great Men of the whole Kingdom met at London, the Archbiſhops, Biſhops, Abbats, Priors, Earls and Barons, in which Council the King, &c.

But though this is clear to any unprejudiced Perſon, yet I muſt be forced to recite the whole Record, though ſomewhat long, for he gives us a touch of his old ſkill, and miſinforms his Readers about the meaning of ſome part of it.

Page 134, 135.

Our Author
miſinforms
his Readers.
Page 135.

He ſays, the *Univerſitas Comitum, Baronum, Militum, & aliorum fidelium* complain againſt the Clergy about *Romeſcot*, whereupon the King granted his Prohibition or *Superſedeas* to the Clergy, that they ſhould do nothing therein. *Quoſque cum Univerſitate* (before-mentioned) *ſuper hoc Colloquium habemus*; Theſe are his own words, and by this laſt Clauſe he would poſſeſs his Readers, that the *Univerſity*, with which the King would have Conference, was the *Univerſity* of the Earls, Barons, Knights, and others his *Fideles*. But it is far otherwiſe, for the words in the Prohibition are, *quoſque cum Univerſita e veſtra ſuper hoc colloquium habuimus*; it being directed to the Archbiſhops, Biſhops, Abbats, Archdeacons, and all the Clergy, and it was *cum Univerſitate veſtra*, or with the *Univerſity* of the Clergy (which often occurs in *Paris* and other Hiſtorians) that he would *habere colloquium*. The Record will make his miſtake evident, and for the matter it contains, is not altogether unworthy peruſal.

Pat. 8 & 9.
Johannis n. 3.

*Rex Archiepiſcopis, Epiſcopis, Abbatibus, Archidiaconis & omni Clero apud Sanctum Albanum conſociato ſalutem, conſe-
rente univerſitate Comitum, Baronum, Militum, & aliorum, fide-
lium noſtroꝝum, audivimus, quod non ſolum in Laicorum gravem per-
niciem, ſed etiam in totius regni noſtri intolerabile diſpendium ſuper
Romeſcotto præter conſuetudinem ſolvendo & aliis pluribus inconſu-
etis exactionibus auctoritate ſummi Pontificis conſilium inire & concilium celebrare decreviſtis. Nos vero licet ob honorem fidei noſtræ &
debitum Reverentiæ quod ſanctæ Eccleſiæ Romane impendere tene-
mur, voluntatem ejuſdem patris noſtri Domini Pape Innocen. ob-
temperare cupiamus, tamen omittere non poſſumus quin querel. fidelium
& ſubditorum noſtroꝝum clamantium & de jacturâ ſuâ ſibi prout
neceſſe eſt ſubveniamus, & emergentibus cauſis quæ indemnitati pacis &
unitatis regni noſtri obviare poſſunt, quæ decet celeritate & diligentia
occurramus; Vobis igitur præciſe mandamus & expreſſe prohibemus ne
ſuper prædictis vel aliquibus aliis concilium aliquod auctoritate aliqua
in fide qua nobis tenemini teneatis vel contra regni noſtri conſuetudi-
nem*

The King for-
bids the Cler-
gy, that they
hold not a
Council by
th Popes Au-
thority.

nem aliquod novum statuatis. Sed sicut & nos honorem nostrum & communem regni tranquillitatem diligitis, à celebratione hujusmodi concilii & à prædictis tractatibus ad præsens supersedeatis quousque cum universitate vestra super hoc colloquium habuimus, Scientes pro certo quod expediet honori Sanctæ Romanæ Ecclesiæ & Domina Pape & nobis & vobis quod istud ad præsens negotium differatur donec specialem habuimus conferentiam quomodo possit commodius & honestius explicari. Et quod vobis hoc mandamus pro honore & commodo sacrosanctæ Ecclesiæ & nostro & regni id facimus, Quia talia audivimus quod fieri necessario expediet, sicut vobis dicemus cum vobiscum locuti fuerimus. T. me ipso apud Ebor. 26. die Maij.

After he hath played with the word *Fidels* in these two Records, he proceeds to the *Omnes de Regno* in *Magna Charta* in *Pulton's Statutes*, chap. 37. In *Coke's second Institutes*, chap. 38. This Charter is not upon Record in the Ninth of *Henry the Third*, the year it was granted; nor do I believe it is entered any other where until the 21 *Edw. I.* 68 years after upon the Statute Roll by *Inspeximus*; The words about the meaning whereof we differ, are these, *pro hac autem Donatione & concessione libertatum istarum, & aliarum libertatum contentarum in charta nostrâ de libertatibus Forestæ, Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, Milites Liberè Tenentes, & Omnes de Regno dederunt Quintam Decimam partem omnium mobilium suorum.* For this Grant and Concession of these Liberties (contained in *Magna Charta*) and other Liberties in our Charter of the Liberties of the Forest, the Archbishops, Bishops, Abbats, Priors, Earls, Barons, Knights, Free-holders, and all of the Kingdom, gave the fifteenth part of all their Moveables.

His Observation upon these words is, that those which gave this Subsidy, were the Members of that Parliament.

But if it were so according to the literal meaning of the words, then all men, as well those that had Estates in Land, as those that had not, all *Copp-holders*, all *Trades-men*, all *Bond-men*, and *Villains*, of which there were great store in those days, and all *Servants* were Members of that Parliament.

And if so, I would willingly understand where all these People should meet, how their Councils should be managed, and how it is possible in such meetings (if any such there can be) to prevent the greatest confusion imaginable.

The meaning then of the words must be, that the Archbishops, Bishops, Abbats, Earls, Barons, Knights, Free-Tenents, and all of the Kingdom, or all the Kings Subjects *dederunt*, that is, paid a fifteenth part of their Moveables to the King, for his granting these Charters, not that they gave or granted the Subsidy; and 'tis reasonable to conclude, that all the Kings Subjects paid this fifteenth part, because one way or other little or much they enjoyed the Benefit of them.

I take this to be the Genuine sense of the words; but the History both of Granting the Charters, and Subsidy out of *Mat. Paris* makes it very apparent who were the constituent parts of this Parliament.

Omnes de Regno. how to be understood.

Magna Charta and the 15th of all mens Moveables how granted

So

Fol. 223. n. 10.
20. 9. Hen. 3.

* Q. Whether
ut decebat
doth not im-
ply that this
Convention
or Solemnity
at Christmas,
was ex more,
by Custom.
Here is not
the least hint
of any Sum-
mons as at
other times.

Ibid. n. 20, 30.

They were
Bishops, Earls,
Barons, Ab-
bats, and
Priors only
that granted
the 15th, men-
tioned in
Magna Charta.
Pulton's Stat.
fol. 9. the
Preamble to
the Statutes
of Merton.
Fol. 421. n. 40.
At the Priory
of the Town
of Merton in
in Surrey.

So much of it as is pertinent to this matter, I here transcribe, *An. Dom. 1225. Rex Hen. ad Natale tenuit Curiam suam apud Westmonasterium presentibus Clero, & Populo cum Magnatibus Regionis, Solennitate igitur completa* * *ut decebat* Hubertus de Burgo Domini Regis Justiciarius ex parte ejusdem Regis proposuit coram Archiepiscopis, Episcopis, Comitibus, Baronibus, & aliis Universis, *Damna & injurias quæ Regi allata fuerunt in partibus transmarinis; petiit ergo ab omnibus Consilium, pariter & Auxilium, quibus corona Angliæ dignitates amissas ac jura possit pristina revocare, ad hoc quoque plenè perficiendum Regi sufficere credidit, si ei Quinta-Decima pars omnium rerum mobilium totius Angliæ, tam à personis Ecclesiasticis, quam a Laicis donaretur; Hiis in hunc modum prosecutis, Archiepiscopus, & concio tota, Episcoporum, Comitum, Baronum, Abbatum, & Priorum, habita deliberatione Regi dedere Responsum, quod Regis petitionibus gratantèr adquiescerent, si illis diu petitas Libertates concedere voluisset, annuit Rex, quod petebant Magnates.* That is, in the year of our Lord 1225. King Henry at Christmas held his Court at Westminster, and the solemnity being compleat, as it was fit it should be, Hubert de Burgh the Kings Justiciary on behalf of the King propounded before the Arch-Bishops, Bishops, Earls, Barons, and all others, the Damages, and Injuries the King had sustained beyond Sea, and asked of them all Aid, and Counsel, by which the Crown of England might recover its lost Dignities, and pristin Rights, and said he believed it would be sufficient fully to perfect that work, if a fifteenth part of all the Moveables of England, as well of Ecclesiasticks, as Laicks, were granted to the King. To these things thus urged, the Arch-Bishops, and the whole Assembly of Bishops, Earls, Barons, Abbats, and Priors, after consultation had about them, gave the King this Answer, that they would willingly comply with his Demand, if he would grant them their long requested Liberties. The King consented to what the great Men demanded, and the Charters were forthwith transcribed, Sealed with the Kings Seal, and sent into the several Counties, and were the very same Charters King John had before granted.

Upon this Account of this Parliament, or great Council, we may observe, that the *Ben* that consulted about the Kings demands, that gave the King answer concerning them, and that granted the fifteenth part of the Moveables, as well of the Ecclesiasticks, as Laicks of the whole Kingdom, were only the Arch-Bishops, Bishops, Earls, Barons, Abbats, and Priors. And therefore they the only constituent parts of this Parliamett, as they were also of the Parliament or great Council held at Merton in the 20th year of this Kings Reign. Whither says Mat. Paris, *Consummato cum gaudio Nuptiali convivio Rex recedens a Lundoniis venit Mertonam, ut ibi revocati Magnates unà cum Rege de Regni negotiis tractarent.* After the Nuptial Entertainment the King retired to Merton, and called thither the great Ben, that together with Him they might treat about the Business of the Kingdom; not one word of the Commons in either place.

Having before evinced the meaning of the words *Clerus* and *Populus*, I cannot foresee what *Cavil* can be raised about this Narrative of this Parliament, unless some men may think there may be something

thing more than ordinary, couched in the words *Solennitate plena*; which signifie nothing but a great or full Appearance at the Solemnity of *Christmas* in the King's Court; or if they will strain the sense of the word further, in relation to the great Council, or Parliament it self, they then signifie no more than that it was a full Parliament, and that there was a great appearance of the Members or Constituent parts of it; and who they were in other full Conferences or Parliaments, may be seen in the following instances.

The meaning of *Solennitate Completa*.

Convenerant Regiâ submonitione convocati Londinum Magnates totius regni Archiepiscopi, Episcopi, Abbates, Priores, Comites & Barones. There met at London, by the Kings Summons, the great Men of the whole Nation, the Arch-Bishops, Bishops, Abbats, Priors, Earls, and Barons, and this Meeting was so full and great, that these Orders particularly, and no other men whatsoever mixed with them, or mentioned to be in the same Assembly, are are called the Common Universty.

Ib. fol. 639. n. 20.
A. D. 1244.
28 Hen. 3.

Medio Quadragesimæ Edicto Regio convocata convenit ad Parliamentum generalissimum totius Anglicani Regni totalis Nobilitas Londini, videlicet Prelatorum tam Abbatum & Priorum, quam Episcoporum, Comitum quoque & Baronum, ut de statu Regni, &c.

Ibid. lin. 22.
The Common University,

Ibid. fol. 696. l. 1.
An. D. 1246.
30 Hen. 3.

In the middle of *Lent*, called together by the Kings Edict, the total Nobility of the whole Kingdom of England, met at London, in a most general Parliament, that is to say, the Nobility of the Prelates as well Abbats and Priors, as of the Bishops, also the Nobility of the Earls and Barons, that they might treat of the state of the Kingdom, &c. No Commons in this most general Parliament.

A most general Parliament.

Et postea in Angliâ in Parlamento Regis, ubi congregata fuerat totius Regni tam Cleri quam Militie generalis Universtas, deliberatum fuerit, ut ob reverentiam Domini Pape adhuc Nuntius, &c. And afterwards in England, in the King's Parliament, where there had met the general Universtity of the Kingdom, as well of the Clergy as of the Militia, it was deliberated for the reverence due to the Lord the Pope, there should yet be a Messenger sent from that whole Universtity, &c.

Ibid. fol. 708. n. 30.
An. D. 1246.
The Universtity of the Militia.

The Historian in this place relates the continuance of the Popes exactions upon the Kingdom, and recounts what was done for the preventing of them in the last most general Parliament, which is here called the general Universtity, as well of the Clergy, that is, Arch-Bishops, Bishops, Abbats, Priors, as of the Militia (that is) of the Earls, Barons, and Tenents in Capite; who held their Lands immediately of the Crown in Military Service, and who only the King summoned in his ordinary Warlike Expeditions, all other Military Men of the Nation that held of them by Mean Tenure were obliged by their Acts, and so just they were in their publick Impositions, that I do not remember they ever put more upon their Tenants *pro rata*, than they bare themselves.

What that was.

What

P. 141. p. 193.
* See it here
in Append. n.

The Record
concerning
the Prior of
Coventry.

The Prior
had time gi-
ven him to
search for Re-
cords, &c.

* Petit. p. 142.

The Priors
Plea.

As to his closing Record, concerning the Prior of *Coventry*, which he says he happily found in the * Exchequer, either he understands it not, or the Observations he makes upon it, were designed to abuse his Readers.

It appears by the Record, that the Prior 17 *Ed.* 3^d, was attached to answer the Service of eight Knights Fees, withdrawn and concealed from the King and his Progenitors, by the Prior and his Predecessors, ever since the 29th of *Henry* the Third. The Prior appeared by *Henry de Stretford* his Attorney, and because the Barons would be fully informed for the King by the Rolls and Remembrances of the Exchequer, of certain things touching this Business; they gave the Prior time, by consent of *William de Thorp* the Kings Serjeant, from *Hilary* Term to fifteen days after *Easter*, to make a search, which not being fully done at that time, he had a day prefixed by the Court, which was the *Octaves* of *Trinity*, when it was found by search in the Roll of the 29th of *Hen.* 3^d, under the Title *Aid*, to marry the Kings Eldest Daughter, that is to say, XX s. of every Knights Fee, that the Prior of *Coventry* rendred account of Ten Pounds for ten Knights Fees. And in the great Roll of the 32th of the same King, Intituled, The *Aid* of the Bishops, Abbots, Priors, granted to marry the Kings Sister to the Emperor *Frederick*, that is to say, of every Knights Fee two Marks, the Prior of *Coventry* rendred an account of twenty Marks for the same. From whence it is evident he held Ten Knights Fees of the King: In the Explication of this Record, and of this place, * these words are left out, *videlicet de quolibet Scuto duas Marcas*, which being compared with the twenty Marks the Prior accounted for in Gross, would have made out the number of Fees he held of the King. Afterwards the Prior and Convent in the Tenth of *Edward* the First, acknowledged the Service of two Knights Fees, in an Expedition and Service summoned against *Wales*, and compounded or fined for that Service in the Exchequer. In the 31th of the same King, the same Prior and Convent acknowledged the same Service of two Knights Fees in an Expedition against *Scotland*, and compounded or made fine for them in the Exchequer forty Pounds. In the 34th of the same King, upon the same Recognition, he made Fine in the Exchequer forty Marks, and upon the same Recognition or Acknowledgment of the Service of two Knights Fees only, in the Seventh of *Edward* the Second, the same Prior compounded with, or made Fine to the King Forty Marks.

Upon which search so made, and what was found in the Rolls produced in Court: The Prior Pleads, and says, that he and his Predecessors held all his Lands and Tenements, as well those he had in Demeasn, as those in Service, by the Service of two Knights Fees only; and that the King or his Progenitors, were never seised of any other Services from the Prior or his Predecessors, to be performed by Fine, or the Service of the Bodies of men, as it may appear by this Search. And for that it was found in the Rolls of *Henry* the Third, that the Prior of *Coventry* had accounted for several Sums, to make his Son Knight, and to marry his Sister; this ought not to prejudice him, for he says, those Aids were not, nor could be accounted Services, and

and were certain *Subsidies* granted by the Great Men and Community of the Kingdom, on *meer free Will*; And desires Judgment, whether, if he held all his Lands and Tenements, by the Service of two Knights Fees only; and it not being found in the Exchequer, that the King or his Progenitors ever were seized of any other, or more Services, by the hands of the said Prior, or his Predecessors, he ought to be *impeached* or *challenged* for any *Fee* or *Service* concealed.

A Whereupon, the Kings Serjeants took time to deliberate upon their Answer, and the Prior had day given him, from Term to Term, until Michaelmas-Term in the Twentieth year of Edward the Third, above two years.

Will de Thorp,
and John de
Stoford.

Upon this Record, I shall observe, first, That the Priors Plea was false, for in the time of Henry the Second, the Prior of Coventry Certified under his Seal, that he held of the King ten Knights Fees.

B Prior de Coventre habet de veteri Feofamento fefatos Septem Milites & tertiam partem unius Militis, & duas quintas partes Militis, & Decimam partem Militis, & super Dominium ejus Quantum sufficit ad perficiendum Decem Milites. The Prior of Coventry hath of the Old Feofment seven Knights Fees, a third part, two fifth parts, and a tenth part of a Knights Fee; and upon his Demeafnes, as much, as will make ten Knights Fees.

Observations
on the Re-
cord.

Liber Rub. in
Scac Tit. War-
wicshire.
This is the
Certificate
mentioned in
the Record.

C And it appears upon Record, that the Prior of Coventry Compounded with the King, for the Service of ten Knights Fees, in the 13 of Hen. 3. and that by virtue of the Kings Writ, he had Scutage of his Tenents that held of him, 40 s. of every Knights Fee.

Prior de Coventre finem fecit cum Rege ut Quietus sit hac vice de Servitio suo cum Rege mittendo ad partes Transmarinas, in hac instanti transfretatione sua post festum St. Michaelis Anno, &c. 13. & pro habendo Scutagio suo de feodis Decem Militum, 2^{ae} de Rege tenent in Capite, scilicet de scuto tres Marcas pro exercitu Regis, ad eandem Transfretationem, Et mandatum est Vicecom. Warm. & Leicestr. quod de predicto Servitio suo pacem ei habere permittat, Et ei habere faciat Scutagium suum de predictis feodis in Balliva sua sicut predictum est 4 die Octob.

Cl 13 Hen. 3.
m 3. pro Prio-
re de Coventre.

Scutage levi-
ed on the Te-
nants of the
Prior by the
Kings Writ.

The like though not so particularly, appears upon Record in the 31 of Ed. 1. Prior de Coventr. qui finem fecit, &c. habet Scutagium suum in Com. Warm. Leycestr. Northt. Glouc. Wigorn. T. R. apud Fyndon. 19 die Junii. In these Counties Leofric the Founder of this Monastery gave unto it, twenty two Towns and an half; which might very well be rated at ten Knights Fees, at the least.

Rot. de Scutag.
31 Ed. 1.

Monast. Angl.
vol. 1. f. 30.

Further it is evident, that however the Entry was made of two Knights Fees only, yet the Composition or Fine was in respect of the Service withdrawn, and for ten Knights Fees, which was forty Pounds, and forty Marks, that is four Pounds, and four Marks for each Fee, which was also a great or perhaps the greatest Rate ever set upon one Expedition: such Sums as twenty Pounds, and twenty Marks a Fee, not being to be found upon any of the Chequer, or Scutage Rolls, or perhaps ever known or heard of.

P. 144.
Negligence of
the Kings Ser-
jeants.

Tenents of
the Prior
Taxed as the
Tenents of
others Ten-
nants in Ca-
pite.

P. 144.

Montfort Cor-
rupted the
Kings Sister
before he
Married her.
Paris fol. 468.
n. 40.

Ibid. fol. 471.
n. 10, 20.
Ibid. fol. 497.
n. 50, 498 lin.
1. &c

Pat. 42 Hen. 3.
m. 9.

Secondly, I shall observe, That if this *Plea* was *allowed*, as our Author says it was, the *Kings Serjeants* were very *negligent*, or *ignorant* in affairs of the *Chequer*, or both, and minded their own business of getting Money, more than the Kings; for it doth not appear by the *Record*, that either they searched the *Rolls* themselves, or set any other to search them for the King, but trusted the Prior of *Coventry*, or his Agents to do it. Then for the several *Fines* and *Compositions* for two Knights Fees, at *forty Pounds*, and *forty Marks*, at several times, if they had *understood* the way of proceeding in the *Exchequer*, there were never any such Sums as *twenty Pounds*, and *twenty Marks* paid for a *Fine* or *Composition* for one single *Expedition*, and for one *Knights Fee*; and that therefore they must have known, such a *great Composition* or *Fine*, was for *Service withdrawn*, and for *more Fees* than *two*, nay for *ten* at least according to the *rate* of *Fines* in those times, and so would have rejected the *Plea*.

Thirdly, I shall observe, That the *Tenents* of the *Prior*, as the *Tenents* of other *Tenents in Capite*, were Charged, and Taxed by the *Kings Writ*, by reason of his *Prerogative*, and Original right in *Military Fees*, as plainly it is manifest, beyond all doubt, by the *Record* of the 13th of *Hen. 3.* before cited, relating particularly to this matter, and also from many other *Records* produced to prove the same, where we have Discoursed of the *Barones Regis & Regni*: and that therefore the *Tenents* of the *Prior* did not grant any *Ayds* in *Parliament*, as well as the *Prior* himself, as this Writer most ignorantly, and ridiculously affirms; So that this *Record* and the falsity of the *Priors Plea* being truly understood, his *Deductions* from and *Observations* upon it are false and groundless.

And now I have done with his Book, it will be necessary to deliver matter of Fact, concerning this famous *Parliament*, summoned to meet on the Octaves of *Hillary*, or the 20th of *January*, 49th of *Henry* the Third, by which any man may understand what it was, and how it was called. But to clear the way to it, something must be said what was done some years before. There never was any great kindness between the *King* and *Simon Montfort Earl of Leicester*, since he first Corrupted and then Married his Sister *Alienor* Widow of *William Marshall Earl of Pembroke*, by which Marriage not only the *King*, but all the *Nobility* was dissatisfied; whereupon he gathered up a great Sum of Money, and went to *Rome* to get his Marriage confirmed, which by the *Clergy* and *Nobility* of *England* was accounted unlawful, she having before vowed *Chastity*. At *Rome* by *Bribery* (notwithstanding the *Arch-Bishop* of *Canterbury* had signified the truth to the *Pope*) vouching the *Kings* consent, though utterly ignorant of his intentions, he got the Marriage confirmed; and though the *King* heaped many favours upon him, yet there never was true affection between them; and after a great falling out between him and the *Kings* half Brother by the Mother, *William de Valentia*, he took all occasions through him and his three Brothers, *Guido*, and *Geofrey de Lusignan*, and *Athelmar* or *Adomar Bishop* Elect of *Winchester* (to whom the King used more indulgence than was seasonable at that time) to wound the *Kings* Reputation.

In

In the year 1258. there was a *Parliament* called at *London* on *Tuesday* being *Hokeday*, which is on the *Quindene* of *Easter*, that is, *Tuesday* fortnight after *Easter Tuesday*. The King called it about the *Business* of *Apulia*, and expected Money from it to proceed in that *Affair*; but instead of that he met with nothing but *Altercations* and *Debates*, and *Enumerations* of *Grievances*, and *Complaints* against himself, that slighting the *keys* and *power* of the *Church*, he did not observe the *Tenor* of the *great Charter*, that he had raised to *Dignities* and *Riches* his half *Brothers*, intolerably against *Law* and *Right*, as if they had been the natural *People* of the *Land*, and although the *Pride* of all the *Kings Brothers*, and other *Poictovins* was intolerable, yet *William de Valentia* exceeded them all. *Simon Montfort* perceiving the dissatisfaction of several of the great *Men* in this *Parliament*, strikes in for his share in the *Reformation*, and immediately to the last words the *Historian* subjoins: from whence chiefly the *Earl of Leycester* complained very heartily, yet not to the *King*, but to the *University*, calling for *Justice*. And the *King* was upbraided that he promoted, and enriched all *Aliens*, and slighted and wasted his own *People*, to the *Subversion* of the whole *Kingdom*, and was then also checked that he could not repel the injuries of the *pitiful Welsh*. After these *wranglings*, the *Parliament* was adjourned to the *Feast* of *St. Barnaby*; and then to be held at *Oxford*. But during the recess we may note, notwithstanding the complaint against *Aliens*, *Montfort* himself was an *Alien* and *Stranger*, a *French man*, born of *French Parents*. He was younger *Brother* to *Almaric*, at this time *Earl of Montfort* in *France*, who was *Son* to *Simon*, and he *Son* to *Almaric*, who was *Bastard* to *Robert King* of *France*, and had the *Town* of *Montfort* given him, &c. from whence his name; and had gotten here in *England* as much *Wealth* as the best of them by the *Kings* favor and bounty.

Barnaby day being come, the great *Men* and *Nobles* of the *Land*, hastned to the *Parliament* to be held at *Oxford*, and commanded all such as ought them *Military Service*, to go along with them, so prepared, as if they were to defend their *Bodies* from attempts of their *Enemies*, and they did so, palliating their coming thus armed under pretence of going against the *Kings Enemies* the *Welsh*, and withal fearing as they pretended, that the *King* and his *Brothers* the *Poictovins* should bring in foreign *Assistance* against them, and therefore they placed *guards* upon the *Ports*; and being met, observing their *Force*, they there made certain *Provisions* or *Statutes*, as they called them, for the *Reformation* of the *State* of the *Kingdom*. They require,

1. The *Kings Confirmation* of the *Charter* of *Liberties* granted by *King John*.
2. That there should be 24 persons chosen, which by the *Kings Commission* should take upon them the *Government* of the *Kingdom*.
3. They should choise the *Justices*, *Chancellors*, *Treasurers*, and other *Officers* and *Ministers*, from year to year for ever.

Paris 963. n. 40.

Ibid. 968. n. 10. Grievances and Complaints against the King. And against his half Brothers.

Ibid. lin. 15.

Leycester calls for Justice.

Ibid. n. 20.

Dugd. Baron. Tom. 1. fol. 751. col. 2. Montfort an Alien a French man born.

Paris 970. n. 40. The Parliament at Oxford, 42 H. 3.

Ibid. n. 50.

Mat. Westm. fol. 391. lin. 4. n. 10.

Oxford Provisions.

4. That they by themselves or friends should have the Custody of the Kings Castles.

5. That all Aliens should be Banished the Land, never to return again, except such as the well affected should permit to stay.

Ibid.
Paris, fol. 971.
n. 20, 30.

And threaten the King and Prince Edward with perpetual Imprisonment if they submit not, and sware to the performance of them; And they by *Edict* made it Capital, for any of what Degree, or Order soever to refuse to consent to them. And against such also the Arch-Bishops, and Bishops of the Kingdom pronounced *Excommunication*.

A

Ibid. n. 40. &
fol. 973. n. 10.

John Earl of Warren, William de Valentia, and the other half Brothers of the King, refuse the Oath, and are forced out of England; the Ports are commanded by the Barons to be more strictly guarded, as also the Gates of London to be strengthened, and shut every night. Then they appoint Hugh Bigod, *Militem strenuum & Legum terra peritum Iusticiarie*, and break up their meeting; soon after they send their Agents to London; who in a full meeting of the Citizens in the Guild-Hall, demand of them whether they would immutably adhere unto, and faithfully obey the Statutes of the Barons, and manfully resist such as should oppose them, and likewise give them effectual assistance; whereunto they freely consented, and bound themselves by a Chart, or Charter, sealed with the Publick Seal of the City.

B

Ibid. fol. 974.
lin. 1.

July 22.
The Londoners consent to bind themselves by their Seal to observe the Oxford Provisions.
Ibid. n. 20.

Paris, a great Favourer of Montforts and the Barons Cause, says, That Fulco Bishop of London, because he would not joyn with them, was more tepid, and remiss, than became him, and incurred the Anger of the Barons, because he believed he might Justifie the King to the People. Not long after this Bishop died of the Plague, of whom the same Author says, he was *Vir Nobilis & Magna generositatis, & nisi paulo antè in Comuni Baronum probitione titubasset, totius regni anchora & clypeus stabilitatis & defensionis*. A Noble Person, and of great Generosity, and unless a little before he had tripped in the Provisions of the Barons, he had been the Anchor of the whole Kingdom, and the Shield of Stability, and Defence.

C

Ibidem, 987.
n. 50.

These Provisions which were ordered by the Barons to be declared and expounded to the People by the Itinerant Justices of their own appointing, in their Circuits, were the foundation of all the ensuing Mischiefs: for the King finding himself Unkinged by them, and the Barons so stiff, as they would not yield in the least; he procured of the Pope Absolution from his Oath, and then took upon him the Government again, and turned out of their places the Barons Justiciary and Chancellor, and went about to his Cities, and Castles, encouraging them to stand to him.

D

The Provisions Ordered to be declared to the People.
Mat. Westm.
fol. 370. n. 10.

Paris, fol. 991.
n. 40, 50.
The King turns out the Barons Justiciary, and Chancellor.
West. fol. 379.
n. 20. & 380.
n. 40.

E

He likewise sent about his own Justices Itinerant through England, to whom the Barons opposed themselves, and encouraged the People not to appear, or bring any business before them, because, according to their Provisions they were to set in one County but once in seven year. The King proceeds, and placeth new Sheriffs

F

in every County, removing such as the Barons had made Sheriffs, who resolving to make good the Oxford Provisions, by the Counsel and Assistance of Simon Montfort, Armed themselves, and on a sudden, when they thought not of it, fell upon the Aliens, the Kings Counsellors, and all they knew adhered to him, and in a Hostile manner seized upon their Estates, Places of Strength, Towns and Goods.

Ibidem, 382. n. 40. And the Sheriffs made by the Barons.

When these things were done, the King was in the Tower of London, and seeing himself surrounded with his Enemies, He consented to a Peace with the Barons upon these Terms.

Ibidem, fol. 383. n. 20. Paris, 992. n. 40, 50. An. Dom. 1264. Westm. 383. n. 30.

First, That Henry, Son to the King of Almaine, should have his Liberty.

Secondly, That the Kings Castles should be put into the hands of his Barons.

Paris, 993. n. 17. An. Dom. 1264.

Thirdly, That the Statutes and Provisions of Oxford should be inviolably observed, as well by the King as others.

Articles of Peace.

Fourthly, That all Strangers, except such as the Well-Affected should think fit, should presently avoid the Nation, never to return again.

But the King having some Advantage, and most of the Twenty Four being willing the Provisions of Oxford should be made less rigid, and more easie to him, both Sides Referred their Differences to the King of France, who Null'd the Provisions of Oxford; but by evacuating them, he did intend altogether to Abrogate King John's Charter, upon which Exception, Montfort and others took advantage, and said, The Provisions were founded upon that Charter, and therefore would not submit to the King of France his Sentence.

Mat. West. fol. 391. n. 40.

From that time, Henry, Son to the King of Almain, Roger de Clifford, Roger de Leybourn, John de Vallibus, Hamo le Estrange, and many other Barons left Montfort, and Roger de Mortuo Mari, who ever was true to the King, wasted his Lands and Estate; But he Confederating with Leolin Prince of Wales, sent an Army thither that Invaded, Destroyed, and Burnt the Lands and Estate of Roger. The Londoners also Destroy and Burn the Estates of such as adhered to the King, and Imprison the Barons of the Exchequer, and Justices of the Bench; while the King, by the Assistance of the Barons that adhered to him, took Northampton Town and Castle, with Fifteen of the Rebellious Barons in it.

Paris, 992. n. 10. Ibidem. Ibid. Montfort refuseth to submit to the King of France his Sentence. Ibidem, fol. 992. n. 20. Some of the Barons revolt from Montfort. Ibidem, n. 30. Mat. Westm. 385. n. 20. The Londoners Imprison the Judges. Paris, fol. 993. lin. 1. &c.

The War thus begun, and the Earl of Leicester being made General, to delude the People, the Earl of Clare and Gloucester joining with him; They sent Letters to the King, professing their Loyalty to him, and affirming, that they did thus put themselves into Arms, as well against his Enemies, as their own.

Ibidem, fol. 994. n. 20. The Barons write Delusive Letters to the King.

To

Ibidem, n. 30.
The Kings Answer to the
Barons Letters.

To which the *King* returned, That their *Intentions* were not according to their *Professions*, nor their *Actions* according to their *Pre-
tences*, and therefore defied them. His Answer was dated at *Lewes*,
May 12. 48 *Hen. 3.* 1264.

Ibidem, n. 40.

Ibidem, fol.
995. l. n. 3.

In like manner, *Richard King* of the *Romans*, *Prince Edward*, and all the *Barons*, and *Knights* that adhered to the *King*, Wrote to them, and defied them, but withal provoked them to stand to the *Judgment* of the *Kings Court*, to which they were ready to submit, and make their *Innocence* appear. These Letters were Dated the same day.

A

Ibidem, n. 10.

At this time
al least
360000 l.

After this the *Rebellious Barons* sent *Henry Bishop* of *London*, and *William Bishop* of *Worcester* their Mediators for Peace, to the *King*, and offered, for *Damages* done by them through the *Kingdom*, 30000 l. so that the *Statutes* of *Oxford* might stand good.

B

Ibidem, n. 20,
30.

The Battel of
Lewes.

Ibidem, n. 40,

50.

Ibidem, & fol.
996. l. 1. & n.

10.

The *King* not accepting their Offer, they March toward *Lewes* in *Suffex*, where he then was, who hearing of their coming, advanced toward them; The *Battel* being joyned, *Prince Edward* ingaged the *Londoners*, and beating them, made too great a Pursuit, so that before his return, the other part of the *Kings Army* was routed, and his Father having his Horse killed under him, was, with *Richard King* of *Almain*, taken *Prisoner*, and many other *Barons*;

C

Ibidem, n. 10.
Montfort offers a Treaty.

Mat. Westm.
fol. 39. n. 40,
50.

but still the *Castle* making a stout defence against the *Barons*, at which the *Prince* took Courage, and rallied his Forces, with design to try the fortune of another Battel, which *Montfort* and his *Confederates* perceiving, they sent Mediators for Peace, promising the next day they would effectually Treat of Peace, which was done by the Mediation and Entercourse of the *Fryers Preachers*, and the *Fryers Minors*, between both Parties, and the issue was this. That both Parties should apply themselves to the *King* of *France*, and procure him to choose three *Prelats*, and three *Noblemen* of *France*, which six should nominate two *Frenchmen*, who coming into *England*, should choose a third Person, an *Englishman*; which three should determine all Controversies between the *King*, and *Barons*, and order all things concerning the *State* of the *Kingdom*. And for the Confirmation of this, both Parties took their Corporal Oaths, and there being an Instrument made of it, the Kings Seal, and the Seal of the *Barons* was affixed to it. And in the mean time *Prince Edward*, and *Henry* the eldest Son of the *King* of *Almain*, remained Hostages with *Montfort*, upon hopes of Peace, and a Deliberate Treaty about the Provisions at *Oxford*, and such things as might be found expedient for the quiet and safety of the Nation. But when *Montfort* had *King Henry*, his Brother *Richard King* of the *Romans*, their Sons *Edward* and *Henry*, and many others of the *Nobility* Prisoners, and carrying about with him the *King* and *Prince*, until he had taken in all the Strong *Forts*, and *Castles* of the Land, he grew more averse, and difficult to treat of the Form, as it had been agreed at *Lewes*; And then making *King Richard* Prisoner in the *Tower*, he sent *Prince Edward* and his Cousin *Henry* to *Dover-Castle*, but carried the *King* about with him where ever he went, and spoiled all those that faithfully adhered to him, or that at any time had served him, of all their moveable Goods.

D

This Instrument is called, The *Mise* made at *Lewes*.

Pat. 48 *H.* 3.

m. 6. Dors.

Prince Edward an Ho-

stage for

Peace.

Paris, fol. 996.

n. 40.

Montfort

grows averse

to Peace.

Ibid.

E

Mat. Westm.
fol. 394. lin. 2.

F

And,

And, *posthac convenientibus Londini Prelatis, Comitibus, & Baronibus, parris illius quæ Regem suum tam seditiose tenuit captivatum, compromissi Lewentis & prestiti Juramenti, in d. sue salutis inmemores, ad Nobis Ordinationes Regni se convertere Curaverunt*; After these things the Prelats, Earls, and Barons of that Party, which seditiously held their King Prisoner, met at London, and unmindful of the Compromise at Lewes, the Oath they had taken, and their own Salvation, they bethought themselves of New Ordinances for the Government of the Kingdom; they Ordained, *Inter cætera statuerunt quod duo Comites, & unus Episcopus ex parte ipsius Communitatis Electi, Novem personas eligerent, quorum tres Regi assisterent, & de Consilio eorum trium, & Novem, tam in Domo Regiâ quam in Regno procederent Universa; & quod à Rege, sine illorum saltem trium Consilio, aliquid fieri non valeret.* Among other things, that two Earls, and one Bishop, elected by the Community; should choose Nine Persons, of which three should assist the King, and by the Counsel of those Three, and Nine, all the Affairs, as well of the Kings House, as of the Kingdom, should be directed, and that what the King should do without the Advice of them, at least of the three, should signifie nothing. *Sicque Comitibus Leycestrie, & Globernæ, & Episcopo Cicesterensi* (who promised, all that Fought stoutly against the King, and were killed in the Battel of Lewes, immediate entrance into Heaven) *Consiliariis & Capitaneis ordinatis.* And so the Earls of Leycester, and Gloucester, and Bishop of Chichester, were ordained the three Chief Counsellors.

Then threatening the King they would choose Another, and the Prince, to keep him perpetually in Prison, *Commento fraudis consentire coacti sunt*, they were compelled to Consent to this Cheat. To which, being drawn up into an Instrument, the Bishops, Earls, and Barons, set their Seals. The Record says, *Hec autem Ordinatio facta fuit in London de consensu, voluntate, & precepto Domini Regis nec non Prelatorum, Baronum, ac etiam Communitatis presentis. In cujus Rei Testimonium Domini, R. Lincoln, & Hug. Elien. Episcopi R. Cam. Norf. & Mar. Angl. Rob. de Uer. Cam. Dron. Humfr. de Bohun, William de Monte Canisio, & Major Lond. Signa sua huic Scripturæ apposuerunt. Actum in Parlamento London. Mense Junii, An. Dom. 1264.* That is,

This Ordination was made in London, by the consent, and good liking, and command of the King, and also of the Prelats, Barons, and the Community present. In witness whereof the Lords Bishops, R. of Lincoln, and Hugh of Ely, R. Earl of Norfolk, and Marshal of England, Robert de Vere Earl of Oxford, Humphrey de Bohun, William de Montchensy, and the Mayor of London, have set to their Seals. Done in the Parliament at London, in the Month of June, 1264.

Having contrived and perfected these Ordinances, they sent Letters to the Bishop of Sabine Cardinal, and then the Popes Legat in France, and to the Illustrious King of France, that they would utterly Annul the Compromise made at Lewes, and establish this new Peace made by an Amicable consent of both Parties; And the Bishops

Ibidem, lin. 3.

No Commons here though in the Record 'tis said, *Et communitatis presentis*, as before is noted.

Ibidem, lin. 6.

This exactly agrees with the Record before cited, *Pat. 48 Hen. 3. m. 6. Dorl.* Two Earls, and one Bishop to choose Nine Persons to Govern the Kingdom.

Ibidem, n. 10. *Paris, fol. 995. n. 20.* He forgot Purgatory. *Pat. 48. Hen. 3. m. 10.*

Mat. Westm. fol. 394. lin. 13.

Pat. 48. Hen. 3. m. 6. Dorl. See here before in this Book. Witnesses to the Instrument of Government.

Concerning this Parliament, and these Men, see before in this Book.

Mat. Westm. fol. 394. lin. 16.

Ibidem, lin. 18, 19.

They use means to the Legat to Confirm the Instrument of Government.

Reformation of the State of the Kingdom. What this Peter Montfort was, see before in this Book.

Pat. 48 Hen. 3. m. 4. Dorf.

The Kings Patent, &c.

Paris, fol. 100. l. 40.

Pat. 49 Hen. 3. m. 6.

He began his Reign, Octob. 19. 1216.

Montfort extorts a Grant of the Earldom of Chester from the Prince.

Pat. 48 Hen. 3. m. 11.

The Earl of Gloucester gets the Estate of John Warren Earl of Surrey.

Pat. 49 Hen. 3. m. 26.

Peter Montfort gets a great Estate, and the Princes Lodgings.

Ibidem, m. 20. They send out Writs in the Kings Name to Summon a Parliament.

Bishops of London, Winchester, and Worcester, and some others of the Province of Canterbury, earnestly beseeched the aforesaid Legat, that he would be very ready to promote that Peace. And not long after, viz. on the Saturday after the Nativity of the Blessed Virgin, which is September the 8th, the Bishops of London, Worcester, and Winchester, with Hugh Despencer, Justiciary of England, Peter Montfort, and Richard de Mepham Arch-deacon of Oxford, were constituted Procurators, and Commissioners, to Treat in the Presence of the Magnificent Prince, the Illustrious King of France, and the Venerable Father, G. Bishop of Sabine, and Legat of the Apostolick See, or either of them, about the Reformation of the State of the Kingdom of England, with Power to do whatever they thought fit in this matter, with a special Clause of Power to Peter Montfort, that what he should Sware to, the King must be obliged to it.

Rex omnibus, &c. Salutem. Noverit Universitas vestra quod Nos Ordinamus & constituimus Ven. Patr. H. Lond. W. Wigorn. & J. Winton. Episcopos. Et Nobiles viros Hug. Dispensatorem Justiciar. Angl. & Petr. de Monteforti & Magistrum Ricardum de Mepham Archidiacon. Oxon. procuratores & Nuntios Nostros, &c. as it is Translated verbatim. Dat. apud Cantuar. Die Sabbati prox. post festum Nativitatis Beate Virginis, An. Dom. 1264.

The Intent of all this Address to the Legat was no other, than to palliate these Practices towards the King with fair and specious Pretences to the Pope, lest he should thunder out his Curses (as he did afterwards by his Legat Ottobon) against them.

While these Barons were in this Power, Montfort extorted from the Prince a grant of the Inheritance of the Earldom and Honor of Chester, with its Appurtenances; and caused another Patent, dated December 24, to be Sealed in the Kings Name for ratifying of it. He passed also on the 20th of May following another Patent of that Earldom and Honor, as also of the Castle, and Honor of Pec. with the Castle, and Town of Newcastle Underline in Staffordshire, to himself and Heirs.

Nor was the Earl of Gloucester unmindful of himself, for he procured a Grant of all the small Estate of John de Warren Earl of Surry, who had faithfully adhered to the King, lying in England, except the Castles of Rigate, and Lewes.

Nor did Peter Montfort forget to enrich himself, for having obtained the Government of Whittenton Castle in Shropshire, and of Hereford Castle, and other things of value; for a further convenience in his high trusts, he procured a Grant of Prince Edwards Lodgings at Westminster.

After these Great Things done, and a New Government was framed, and set up, they sent out Writs in the Kings Name unto divers Bishops, Abbats, and Priors, and to such of the Noblemen, as were of their own party. To the Sheriffs of Counties, Cities, Burghs, and the Cinque-Ports.

The first was to the Bishop of *Durham* in this Form.

Henricus Dei Gratia Rex Anglicæ, Dominus Hiberniæ, & Dux Aquitaniæ; Ven. in Christo Patri R. eâdem gratiâ Episcopo Dunelmensi, Salutem. Cum post gravia turbationum discrimina dudum habita in regno nostro, Charissimus filius Edwardus Primogenitus noster pro pice in regno nostro asscurandâ & servandâ Obses traditus Extitisset; & jam sedatâ (Benedictus Deus) turbatione prædictâ super deliberatione ejusdem salubriter providendâ, ac plenâ securitate, tranquillitate & pace ad honorem Dei & utilitatem totius Regni nostri firmandâ & totalitèr complenda, ac super quibusdam aliis regni nostri negotiis, quæ sine consilio vestro, & aliorum Prælatorum & Magnatum nostrorum nolumus expediri, cum eisdem tractatum habere nos oporteat, vobis Mandamus rogantes in fide, & dilectione quibus nobis tenemini, quod omni Occasione post-positâ, & negotiis aliis prætermisissis, sitis ad nos Londini in Octavis Sancti Hillarii proximè futuris nobiscum, & cum prædictis Prælati, & Magnatibus nostris quos ibidem vocari fecimus super præmissis tractaturi; & Consilium impensuri. Et hoc sicut nos & honorem nostrum & vestrum, nec non & Communem Regni nostri tranquillitatem diligitis, nullatenus omittatis. Teste Rege apud Wigorniam, 14 die Decembris.

Cl. 49 H. 3. m. 11. Dors. in Schedula. The Writ.

He began His Reign, October 19. 1216.

Henry, By the Grace of God, King of England, Lord of Ireland, and Duke of Aquitain, to the Venerable Father in Christ, R. by the same Grace Bishop of Durham, Greeting, Whereas, after great Troubles and Confusions in our Kingdom, Our Eldest Son Edward was delivered an Hostage for the securing and establishing Peace. And the said Troubles (Blessed be God) being now over, for the delivery of him out of Prison, and the setting of a full Security, Tranquillity and Peace, to the Honor of God, and the profit of the whole Kingdom; and for transacting some other business of the Kingdom, which without your Counsel, and the Counsel of others of Our Prelats and Great Men, we would not dispatch, and with whom we ought to Treat. We command you, requiring, that in the Faith and Love by which you are bound to us, that every occasion being post-poned, and all business laid aside, you be with us at London, in the Octaves of St. Hillary next coming, to Treat with Us and Our Prelats, and Great Men, which we have caused to be called thither, and to give your Advice upon the Premises; and this as you love Us, Our Honor, and your own, and also the Common Tranquillity of Our Kingdom, ye may in no wise omit.

The Writ of Summons, 49 Hen. 3.

These Octaves are Jan. 20.

Witness the King at *Worcester*, 14th day of *December*.

Q

Eodem

Eodem modo Mandatum est.

E *Piscopo Carleol.*
Abbati Sanctæ Mariæ Ebor.
Priori Dunelm.
Priori Sanctæ Trin. Ebor.
Abbati de Seleby.
Abbati de Furnes.
Abbati de Fontibus.
Abbati de Ryeval.
Abbati de Melfa.
Abbati de Rupe.
Abbati de Bellalanda.

Priori de Bridlington.
Priori Sancti Oswaldi.
Abb. de Rufford.
Pr. de Blida.
Pr. de Thurgarton.
Pr. Carleol.
Abb. de Whiteby.
Pr. de Giseburn.
Archiepisc. Ebor.
Priori de Parco.
Decano Ebor.

A

B

Eodem modo Mandatum est subscriptis, viz.

E *Piscopo London.*
Episc. Winton.
Episc. Oxon.
Episc. Wygorn.
Episc. Lincoln.
Episc. Elien.
Episc. Sarum.

Episc. Cov. & Litch.
Episc. Cicestren.
Electo Bathon. & Well.
Decano Exon.
Decano de Welles.
Decano Sarum.
Decano Lincoln.

C

Four of these Bishops were Excommunicated by the Pope for their Rebellion, *London, Winton, Worcester, and Chichester*; and surely they were notable Rebels that he would Excommunicate; and two others of them, *Lincoln and Ely*, were Parties to the *New Instrument of Government*, and the rest no doubt of the same Batch.

D

In forma prædicta Scribitur Abbatibus & Prioribus subscriptis sub hac data. Teste Rege apud Wodstoke 24 die Decembris.

A *Bbati Sancti Edmundi.*
Abbati de Waultam.
Abbati de Sancto Albano.
Electo de Evesham.
Abb. Westmonasterii.
Abb. Glauston.
Abb. de Reading.
Abb. de Cirencestre.
Abb. de Waverle.
Priori Eliensi.
Pr. Norwicensi.
Pr. de Merton.
Abb. de Ofeney.
Pri. S. Fridswid, Oxon.
Abb. de Messenden.
Pr. de Lanton.

Abb. de Bello.
Priori ordinis de Semprinham.
Pr. de Walton.
Pr. Hospitalis St. Johan. Hierusalem in Angliâ.
Magistro Militiæ Templi in Angliâ.
Abbati de Ramesie.
Abb. de Burgo.
Abb. de Thorney.
Abb. de Crowland.
Abb. Cestriæ.
Abb. Salop.
Abb. de Hulmo.
Abb. de Bardenei.
Abb. de Colcestre.

E

F

Priori

Priori de Dunstable.
Abb. de Bello loco.
Abb. de Parco Ludæ.
Abb. de Stanleigh.
Abb. de Lillethull.
Abb. de Biltlesden.
Priori de Bevoir.
A *Priori de Lewes.*
Abbat de Clerevaus.
Priori de Stodeley.
Abb. Sancti Augustini Cantuar.
Abb. de Certesey.
Pr. S. Trinit. Cantuar.
Abb. de Hida Wynton.
Abb. de Middleton.
B *Abb. de Cerne.*
Abb. de Abbotsburie.
Abb. de Tavestock.
Pr. de Huntingdon.
Abb. de Suleby.
Abb. de Wardon.
Abb. St. Jacobi Northampt.
Abb. de Leicester.
C *Abb. de Kirksted.*
Pr. de Eton.
Pr. de Cruce-Roys.
Abb. de Kirkstall.

Abb. de Tame.
Pr. de Bermondsey.
Pr. de Bernwell.
Abb. de Morevall.
Abb. S. Augustini Bristoll.
Abb. de Malmesburie.
Abb. de Michelnei.
Abb. de Abindone.
Abb. S. Petri. Glouc.
Abb. de Persoure.
Abb. de Wynchecomb.
Pr. de Conventre.
Pr. de S. Neoto.
Pr. S. Swithini Wynton.
Abb. de Lesnes.
Pr. de Leedes.
Pr. de Landa.
Pr. de Spalding.
Pr. St. Barthol. London.
Pr. de Kenilworth.
Abb. de Osulveston.
Abb. de Teukesburie.
Pr. de Fintheved.
Abb. de Middleton.
Abb. de Valledai.
Abb. de Croxden.

D The Reason why there was so many *Abbats* and *Priors* Summoned, was, because he thought himself sure of them ; he was a Great Zealot, and a Godly Man in those times, a Great Minion of these Religious Men (as then called) as also of the *Bishops* and *Clergy*, and they at least seemingly Great Favorites of his, *Paris*, fol. 995. 10. 998. 30.

Item in formâ prædictâ mandatum est Comitibus & aliis subscriptis.
Dat. apud Wodestoke viceffimo quarto die Decembris.

E **C** *Comiti Leicest.*
Comiti Gloucestr.
Comiti Norfolciæ, & Marescallo
Angliæ.
Comiti Oxon.
Comiti Derb.
Radulpho de Camoys.
Rogero de S. Johanne.
F *Hugoni le Despenfer Justiciario*
Angliæ.
Johanni filio Johannis.
Willielmo de Munchensi.
Nicholao de Segrave.

Johanni de Vesce.
Radulpho Basset de Drayton.
Henrico de Hastings.
Galfrido de Lucy.
Roberto de Ros.
Johanni de Eyvill.
Adæ de Novomercato.
Waltero de Colevill.
Willielmo Marmyon.
Rogero Bertram.
Radulpho Basset de Sapcote.
Gilberto de Gaunt.

These Earls and Barons were all in Arms against the King, as may be seen in *Mat. Paris*, *Mat. Westminster*, *Dugdales Baronage*, &c.

Item Mandatum est singulis Vicecomitibus per Angliam quod venire faciant duos milites de legalioribus & discretioribus militibus singulorum comitatum ad Regem London, in Octabis prædictis in formâ supradictâ. Without date.

It doth not appear by the Writ, whether the *Sheriffs*, or *Counties* were to Elect and send these Knights; The *Sheriffs* then were of the Faction, and made by them, and 'tis here said only, *Quod venire faciant.*

Item in forma prædictâ scribitur civibus Ebor. civibus Lincoln & cæteris Burgis Angliæ quod mittant in formâ prædictâ duos de discretioribus & legalioribus & probioribus tam civibus quam Burgensibus suis. Without date.

Cl. 49 Hen. 3.
m. 11. Dors.
in Scheda.

Rex Baronibus & Ballivis portus sui de Sandwico, salutem. Cum Prelati & Nobiles Regni nostri tam pro negotio liberationis Edwardi Primogeniti nostri quam pro aliis Communitatem Regni nostri tangentibus, ad instans Parliamentum nostrum quod erit London in Octab. Sancti Hillarii convocari fecimus, ubi vestra sicut & aliorum fidelium nostrorum præsentia plurimum indigemus. Vobis mandamus in fide & dilectione quibus nobis tenemini firmiter injungentes, omnibus aliis prætermisissis, mittatis ad nos ibidem quatuor de Legalioribus & Discretioribus portus vestri. Ita quod sint ibid. in Octab. prædictis. Nobiscum & cum præfatis Magnatibus Regni nostri tractatum & super præmissis Consilium impensuri. Et hoc sicut honorem nostrum & vestrum, & communem utilitatem Regni nostri diligitis nullatenus omittatis. Teste Rege apud West. 20 die Januar.

Similiter mandatum est singulis portibus pro se.

Lastly, I will add from other Membranes of this Roll, two other Writs, the one for the *Expences* of the Knights, which were summoned to this Convention or Parliament, and the other a *second* Writ, to the Sheriff of *Shropshire* and *Staffordshire*, to send four Knights for those two Counties to the King, and Council, where ever he should be in England, to treat and speak with them about the *Business* of that Parliament after it was Dissolved, because he had not caused any to come before to London in the *Octaves* of St. *Hillary*.

Cl. 49 Hen. 3.
m. 10. Dors.

The Writ for
the Knights
Expences.

Rex vicecomiti Eborum salutem, Cum nuper vocari fecimus Duos de Discretioribus Militibus singulorum Comitatum nostrorum Angliæ, Quod essent ad nos in Parlamento nostro apud London in Octabis St. Hillarii proximo preteriti ad tractandum nobiscum, & cum Consilio nostro, super Deliberatione Edwardi filii nostri charissimi, & securitate inde facienda, nec non & aliis arduis Regni nostri Negotiis, ac Iidem Milites moram Diuturniorem quam credebant traxerint ibidem, propter quod non Modicas fecerint Expensas, Cumque Communitates Comitatum

tatum Dictorum varias hoc anno fecerint præstationes ad Defensionem Regni nostri, & Maxime partium maritimarum contra hostilem Adventum Alienigenarum, per Quod aliquantulum se nimium sentiunt gravatas, Tibi præcipimus quod Duobus Militibus qui pro Comunitate Dicti Comitatus prefato Parleamento interfuerunt, De Consilio quatuor Legalium Militum ejusdem Comitatus, rationabiles Expensas suas, in veniendo ad Dictum Parleamentum ibidem Morando, & inde ad partes suas Redeundo provideri, & eas de eadem Communitate levare facias, proviso quod ipsa Communitas, occasione præstationis istius ultra modum non gravetur. Teste Rege apud Westmonasterium 15 Die Febr.

Knights had their Expences allowed, not only as Members of Parliament, but also for transacting other publick Business for the common profit of Counties in the Counties, before the King and Council, or before the Parliament. In the 42 of Hen. 3. in the Parliament, or Tumultuous Meeting, held at Oxford by prorogation, on Barnaby-day, it was Ordained, That all Excesses, Transgressions, and Injuries done or committed, as well by Justices, Sheriffs, Bayliffs, or other Persons whatsoever should be inquired into, by four Knights in every County, by Jury, or Juries, of Knights, or others, to be summoned by the Sheriffs to come before them, and the Inquisitions so made, were to be sealed with their own Seals, and the Seals of the Jurors, and to be delivered by their own proper persons, to the Kings Council in Parliament at Westminster eight days after Michaelmass, and Writs issued this year to four Knights in every County to that purpose, dated on the fourth of August, who made their Inquisitions and Returns accordingly; And for their dispatch of this Business, and Attendance upon the Kings Council or Parliament, they had their Expences allowed them by the Counties, upon Writs to the Sheriffs. Rex Vicecom. Hunt. salutem, Quia dilecti & fideles nostri W. le Moyne, Walter. de Walsingham, Simo de & Baldwinus de Drayton quibusdam Inquisitionibus faciendis pro Communi utilitate predicti Comitatus nuper attenderunt, & postea Coram Consilio nostro apud Westminster in Parlamento post festum Sancti Michaelis proxime præteritum pro dictis negotiis moram fecerunt Tibi precipimus quod predictis quatuor Militibus rationabiles Expensas suas, in Eundo, redeundo, & in prefato Parlamento, pro dictis negotiis Morando, de Comunitate dicti Comitatus habere facias. Teste Rege apud Westm. 4 die Novemb. Anno, &c. 43. From the form of these Writs undoubtedly it was, that these words (*prout alias in Casu Consimili fieri Consuevit*) were inserted into ancient Writs for the Expences of Knights, Citizens, and Burgesses, after the words (*rationabiles Expensas suas in veniendo ad nos, ibidem Morando, & ad propria redeundo*) as in Cl. 28. Ed. 1. m. 12. Dors. Cl. 29. Ed. 1. m. 17. Dors. Cl. 33. Ed. 1. m. 15. Dors. Cl. 34. Ed. 1. m. 11. Dors. Cl. 35. Ed. 1. m. 14. Dors.

Rex Vicecomiti Salop & Stafford salutem, Cum Prelatos, Magnates, & Nobiles Regni nostri, tam pro Negotio liberationis Edwardi primogeniti nostri, & securitate inde facienda, quam pro aliis Comunitatem Regni nostri tangentibus, nuper vocari fecimus Quod essent ad nos London in Quindena Sancti Hillarii proxime præterita, nobiscum supra his tractaturi, & Tibi sicut aliis Vicecomitibus nostris per Angliam preceperimus

Knights had their Expences allowed for dispatch of Publick Country Business though not Members of Parliament.

Rot. Pat. 42 Hen. 3 m. 3. & n. 9.

Inquisition to be made by four Knights, of Excesses and Transgressions in every County.

Claus. 42 Hen. 3 m. 1. Dors. The Writ for their Expences in the management of that Affair.

Hen. 3. began his Reign October 19.

Cl. 49 Hen. 3. m. 9. Dors. The second Writ to the Sheriff of Shropshire, &c.

22 of Febr.

ceperimus quod de utroque Comitatu predictorum, ad nos venire faceres ad predictos diem & locum, Duos de Discretioribus, & legalioribus Militibus eorundem Comitatum, nobiscum & cum predictis Magnatibus, ex parte Comunitate Comitatum illorum super premissis tractaturos, & Consilium suum impensuros, Ac de partibus predictis juxta Mandatum nostrum, ibidem non venerint, aliqui Milites, super Quo miramur quamplurimum, & Movemur, Tibi precipimus iterato firmiter injungentes, quod Dictos Milites ad nos venire facias. Ita Quod modis omnibus sint ad nos, a Festo Cathedre Sancti Petri, in Quindecim dies, ubi tunc fuerimus in Anglia, nobiscum, & cum Magnatibus qui sunt de Consilio nostro, super premissis negotiis locuturi, & ita te habeas in hoc Mandato nostro Exequendo, quod pro defectu tui, ad te minime Capere debeamus Teste Rege apud Westm. 23 die Febr.

A

Without the History of this Nick of Time, this Writ is not fully understood.

B

Paris, fol. 996
n. 50.

There were in the Marches of Wales several Loyal Barons, Roger Mortimer, James Audely, Roger de Leybourn, Roger de Clifford, Haimo le Strange, Hugh Turbivile, and many others, being much troubled at the usage of the King and Prince; unanimi contra Comitum Leycestria insurgunt consensu; with one consent took Arms against the Earl of Leicester. These brake down the Bridges upon the River Severn, and secured themselves in the Borders of Wales, on the West-side of it.

C

Westm. fol. 389.
n. 40, 50.

Montfort carries the King to Worcester. The Barons Marchers forc't to make Peace. They deliver up their Castles. The First Writ of Summons dated at Worcester.

To Reduce these, assumpsit Secum Regem Henricum, quem habuit adeo acclivem, &c. Montfort carried with him the Obsequious King (made so by Threats) and Marched with a great Army to Worcester: and having procured his Fast Friend Leolin Prince of Wales to come upon the back of them, they were forced to make a Peace, on condition they should leave the Nation for a year, and deliver up their Castles to Leicester, to which terms they the more readily consented, that Prince Edward might be freed of his Imprisonment.

D

The Earl of Leicester being at this time at Worcester, and having the King with him, the Writ to the Bishop of Durham, eleven other Bishops, and the Elect of Bath and Wells, ten Abbats, nine Priors, and five Deans of Cathedral Churches, was dated there as above.

E

Ibidem, 390.
lin. 7.
The King keeps his Christmasts at Woodstock.
Ibid. n. 10.

But from Worcester (all things being quiet in the Marches of Wales) the King went towards Woodstock, to keep his Christmasts there.

Montfort subdued all England.

Disposeth all things at his pleasure. The King but a Shadow, he went not abroad without his Keepers.

Sed & Comes arridente ei fortuna in omnibus, quæ mente conceperat, idem festum celebravit in Castro suo de Kenelworth, &c. And the Earl, fortune favouring him in all things he had contrived, celebrated the same Feast at his Castle of Kenelworth. Jam quidem omnis Angliæ præter Aquilonem ulteriozem quæ adhuc conspiraverat contra eum, instigantibus Rege Scotia & Johanne de Baliolo, inclinata extitit ei, & subjecta, omnia per ipsum ordinata sunt, omnia Regis castra ejus ditioni sunt Commissa; Nec etiam ipse Rex qui jam Regnando quinquagesimus extiterat nisi pro umbra nominis habebatur adeo ut Terram suam perlustrare, vel peragrarare non poterat, quin in conductu & dispositione totaliter fieret. alterius.

F

alterius. For now all *England* but the utmost *North-part* of it, which as yet held out against him, by the instigation of the *King of Scots*, and *John Baliol*, was subject to him; all things are ordered by him, all the *Kings Castles* are put into his hands; Nor was the *King*, that had now Reigned *Fifty* years, any more then a *Shadow*, so that he could not walk in his own Land without a *Keeper* and *Guard*, and under the total disposition of some other Person. And his Keepers were usually *Montfort's Sons*, *Hugh D'espencer*, and *John Fitz-John*, the *Earl of Gloucester* being excluded from the custody of him.

Ibidem, 394. n. 30.

And then in the same form Writs were directed to fifty four *Abbats* more, twenty eight *Priors*, and the *Master of the Temple*, Dated at *Woodstocke*, *December 24*. At the same time also, and in the same form, Writs were sent to *Six Earls* only, and seventeen *Barons*, all high Men of this *Faction*; and to the *Bishop of Norwich* singly a Writ was directed, Dated there *December 26*.

Writs of Summons dated at Woodstocke.

What this Convention did, it doth not, that I can find any where, appear; they sate not long, for the Writs for the *Expences* of the *Knights* and *Burgesses* (which are the first upon Record) bear date at *Westminster*, *Feb. 10*. It is not probable that the *Prince* had then his *Liberty*, for they talked of that almost a year, and he obtained it not until he had granted the *County Palatine* of *Chester* to the *Earl of Leicester*, the last *Patent* whereof was passed, *May 20*. *49 Hen. 3.* and then he was only taken out of *Dover-Castle*, and made *Prisoner* at large under a *Guard*, as his *Father* was, until he made his *Escape* from his *Keepers* at *Hereford Castle*, on *Saturday* in *Whitsun-Week*.

Claus. 49 H. 3. m. 10. Notwithstanding the pretence of the Writ. Westm. fol. 394. n. 40. The Prince was by this Convention freed from his Imprisonment in Dover-Castle.

The *Delays*, *Confusion*, different *Form*, and *Dates* of these Writs are new, and somewhat strange; it was not so in *August* and *September*, immediately preceding the date of these Writs. Then the *Prelats* and *Great Men* of the *Faction* only granted a *Tenth* of all *Ecclesiastical Livings*.

Rex Episcopo Norwicens. Salutem. Cum per Prelatos & Bagnates Regni nostri provisum sit, & unanimiter concessum, quod Decime proventuum omnium beneficiorum in regno conferantur ad communem utilitatem Regni & Ecclesie Anglicane, &c. Certe apud Cantuar. 1 Die Septembr. & in Claus. of this year, M. 5. Dors. 4 Junii, there is a *Writ of Summons* in the old form to the *Barons*. It should seem the *Process* was gradual, by the different *Dates* of the Writs; or that they were issued upon *Emergences*, or as the *Confidants* and *Well-affected* were thought of. For most certainly, all these Persons were named by *Montfort*, and his *Privado's*.

Cl. 48 H. 3. m. 3. Dors.

The Well-Affected thought of by degrees.

And without doubt, as others have conjectured before me, the danger that *Simon*, and his *Privado's* apprehended, from the course of the *Nobility*, and their great *Retinues*, and the Example of his, and the *Barons* practices at *Oxford*, was the reason why they altered the *Ancient Usage*; and of their sending, directing, and in the *Kings* name commanding, the *Sheriffs* of each *County*, the *Cities*, and *Burghs*, to send two *Knights*, *Citizens*, and *Burgesses* respectively.

Dugd. Baron fol. 759. col. 2. The probable Cause that moved Montfort to Summon this Convention.

After

It was fought
Aug. 5. 49 H. 3.
Fol 395. n. 20.
Paris. fol. 999.
lin. 1. Sept. 8.

The Liberties
and Priviled-
ges of the City
of London ta-
ken from it.
The Rebels
Estates given
to the King.

Rot Pat. 49 H.
3. n. 9. Dors.

A Parliament
at Winchester,
49 Hen. 3.
wherin no
Commons.

Nor in the
Parliament
that made the
*Ditum de Ke-
nilworth* in the
50 of Hen. 3.

Tottells Stat.
Printed 1576.
p. 15. a.
Cok. 2. Instit.
f. 101.

After the Battel of Evesham, into which Montfort forced the King, where he was wounded. *Domino Rege violenter adducto*, says *Mat. Westminster*. *Triumphatis hostibus, Rex Porestati Regie restitutus, de consilio filii Victoris Wintoniam Parliametum convocavit, in Nativitate Virginis gloriosæ, ubi inito concilio, civitatem Londinensem, ob suam Rebellionem privavit suis privilegiis, & Libertatibus antiquis, &c.* The King having vanquished his Enemies, and being restored to his Kingly Power, by the Advice of his Son called a Parliament at Winchester, on the eighth of September, where the City of London had its Priviledges, and Ancient Liberties taken away for its Rebellion, &c. And also the *seisin* or possession of all the Lands and Tenements of the Kings Adversaries, and Rebels, and their Adherents, were given or restored unto him.

Rex omnibus fidelibus suis, de Comitatibus Warwic, & Leycester salutem, Sciatis Quod Cum nuper unanimi Concilio & voluntate Magnatum nostrorum apud Winton Convenientium reddita fuerunt in manus nostras seilina omnium Terrarum & Tenementorum, a quibuscunque occupatorum, de Terris adversariorum & Rebellium nostrorum, Qui nobis manifeste adversabantur in Turbatione & Guerra nuper in Regno nostro suborta, & eisdem in Turbatione prædicta manifeste adhærentium, Constituimus dilectos & fideles nostros, Willielmum de Bagod, & Robertum de Grendon, una cum Vicecomite nostro Comitatum prædictorum ad omnes Terras & Tenementa prædicta in manus nostras, &c. Teste Rege apud Winton 21 Septembris.

This Parliament (as *Mat. Paris* calls it) according to the old form and usage, consisted only of the Barons and Great Men: for as he reports it, 'twas convened at Winchester on the eighth of September in the 49th of Hen. 3. and on the twenty first of the same Month are these Letters Patents, or Writ, dated at the same place, by which it appears, that the *seisin* and possession of all the Rebels Lands and Tenements, were given to the King by the Council and Consent of his Great Men, so that the Commons in this Parliament were not Represented as at this day; nor did the King according to Montfort's form, issue Writs to the Sheriffs of Counties to cause to come to him two Legal and Discreet Knights, &c.

Nor did he continue Montfort's method in calling Parliaments, as appears by that Parliament which was Summoned in the Fiftieth of his Reign, for the Relief of the Disinherited, and Establishing a firm Peace in the Nation: in which there were no Knights nor Burgessees according to future Constitution, as hath been before proved, when we treated of the *Ditum de Kenilworth*.

And is further manifest from the Statute of Marlebridge, made in the Fifty second of this King for the renewing, confirming, and establishing (as it were then) the Body of the Law of this Nation. The Preamble whereof runs thus; *Anno Gratia 1267. Regni autem Domini Henrici filii Regis Johannis quinquagesimo secundo in Octabis Sancti Martini, Providente ipso Domino Rege, ad Regni sui Angliæ Meliorationem, & Exhibitionem Justitiæ (prout Regalis Officii Expescit utilitas) pleniorum, Convocatis Discretioribus ejusdem Regni, tam Majoribus, quam Minoribus, Provisum est, & Statutum, ac*

concor-

concordatum & Ordinatum, &c. We see by this Preamble, that by the care and providence of the King himself, for the Melioration of his Kingdom, and the more full Exhibition of *Justice*, were called together the more *Discreet* Persons of the same Kingdom, as well the greater, as the lesser, by whom, the *Provisions, Establishments, Agreements, and Ordinances* in this Statute comprehended, were made.

Upon this Preamble I observe, first, That all the great Barons were not present at the making of this Statute, but only the more *Discreet*, and such as the King thought fit to call, who were Summoned always by particular Writs.

Secondly, That neither were all the lesser Barons, or Tenents in Capite present in this Parliament, but only the more *Discreet* Persons amongst them, and these called by the King, and in all probability by particular Directions: for by a general Summons according to King Johns Charter, directed to the Sheriff of each County, to Summon all the Minor Barons, and Tenents in Capite, it could not be that only the more *Discreet* Persons of them should be called together, nor is there in this Preamble, the least hint, or intimation of any Writs directed to Counties, Cities, or Burghs, for the choice of Members.

Thirdly, From the Sixth Chapter of this Statute, which was one of the chief Laws contained in it, I shall observe, That it was made *per la purveance Robert Walerand, & per Commune assent des graunts Seignours due Realme*; by the procurement or forecast of Robert Walerand, and by common assent of the great Lords of the Realm. I will only note, that Robert Walerand was a Baron, a Soldier, and Lawyer, and died in the first of Edw. I. that Britton lived at this time, and well understood the Constitution of Parliaments, and wrote the Book of the Laws of England, bearing that name, in the time of King Edward aforesaid, and by his direction; and leave the rest to the Judgment of the Reader.

Lastly, From the whole it may be observed, That though the Learned Camden, nor his ancient Author, be of any great Credit with Mr. Selden, and some others, yet here is an old Statute, that seems to point at and discover almost the very same thing, viz. That after the horrid Confusions, and Troubles of the Barons Wars, those Earls and Barons *Quibus ipse Rex dignatus est, Brevia summotionis dirigere, venirent ad Parliamentum suum, & non alii.*

From King Henry the Third, we proceed to Edward the First his Son, who in the beginning, and for several years of his Reign and Government, for ought what appears from several Statutes then made, and other Records, did not issue Writs, for the Election of Knights, Citizens, and Burgesses, as at this day, but used the same way, and course of Summoning, and holding Parliaments, his Father had done before him.

I shall begin with the Statute of Westminster the first, the Preface whereof begins thus. *Ceux sont les Establishments, le Roy Ed-*

Not all the great Barons, but the more Discreet of them were at the making of the Statute of Marlebridge, 52 Hen. 3. Nor were all the lesser Barons in this Parliament, but only the more Discreet of them.

The sixth Chapter of this Statute, made and procured by Robert Walerand. Britton, p. 95. b. Cok. 2. Institut f. 109. He was a Baron, a Soldier, and Lawyer.

The Testimony of Camdens old Author made good by an old Statute.

Britan, f. 122.

Probably no Writs for the Election of Knights, Citizens, and Burgesses were issued in the beginning of King Edward the First his Reign.

Tottells Stat. p. 74. a. Cok. 2. Institut. f. 156.

The Statute
of Westminster
first, and the
first Parlia-
ment of Ed-
ward the First.

ward sits le Roy H. faits a Westminster a son primer Parliament general apres son Coronement, lendemain de la clise de pasche lan, de son Raign 3 per son Councel, & per l'assentments, des Archevesques, Evêques, Abbes, Priours, Countes, Barons, & tout la Communalty de la terre illozqs somons. These are the Establissements of King Edward, the Son of King Henry, made at Westminster at the first general Parliament after his Coronation, on the Morrow of the close of Easter, in the Third year of his Reign, by his Council, and by the assent of the Arch-Bishops, Bishops, Abbats, Priors, Earls, Barons, and the whole Commonalty of the Land thither summoned.

A

Why it was
called a gene-
ral Parlia-
ment.
See Communi-
tas Terra in
Glossario.

2 Inst. f. 156.

This was a general Parliament, and so called in respect of the generality of the Summons, and Appearance, for besides the Arch-Bishops, Bishops, Abbats, Priors, Earls, and Barons, all the Community of the Land, that is, all the lesser Barons, and Tenents in Capite, were summoned to it. Sir Edward Coke says it was called a general Parliament because all the Laws then made were general, if so, why was not the Parliament at Marlebridge also called a general Parliament, which consisted only of the more Discreet, as well of the greater as lesser Persons, when, as all the Laws there made were as general as these.

B

The Parlia-
ment Pro-
rogued be-
fore meeting.

This Parliament was first summoned to meet fifteen days after the Purification of the Virgin Mary, but was prorogued before meeting, unto the Morrow after the close of Easter, which was the Munday after Easter Munday. The Original Summons to it, are not to be found upon the close Roll of this, or the preceding year of this King, but the Writ of Prorogation directed to the Arch-Bishop of Canterbury is as followeth.

C

Claus. 3. Ed. 1.
m. 21. Dorf.
De veniendo
ad Parliamen-
tum.

Rex venerabili in Christo patri R. Cantuariensi Archiepiscopo totius Angliæ primati salutem, Quia Generale Parliamentum nostrum Quod cum Prelatis & Magnatibus regni nostri proposuimus habere, London: ad Quindenam purificationis beate Mariæ proxime futuram; Quibusdam certis de causis prorogamus, usque in Crastinum Clausi Paschalis, proxime sequens. Vobis Mandamus rogantes quatinus eidem Parlamento ibidem in eodem Crastino Clausi Paschalis intersitis ad Tractandum & Ordinandum una cum Prelatis & Magnatibus Regni nostri de negotiis ejusdem Regni, & hoc nullatenus omittatis. T. Rege apud Wodestok 27 die Decembr.

D

King Ed. 1.
began his
Reign, No-
vember 16.
1272.

The King to the Venerable Father in Christ R. Arch-Bishop of Canterbury, Greeting; Because our general Parliament which we purposed to have, with the Prelats, and Great Men of our Kingdom at London, on the Quinden of the Purification, &c. next coming, we have for some certain causes prorogued, until the Morrow of the close of Easter next following, we Command, requiring you that you be present at the same Parliament, &c. to Treat and Ordain together with the Prelats and Great Men of our Kingdom concerning the Business of the same Kingdom, and this you may in no wise omit. Witness the King, &c.

F

By

By this Writ we see the Kings purpose to hold a general Parliament, with the *Prelats*, and *Great Men* of his Kingdom, which *great Men*, very frequently comprehended as well the *Barones Majores*, as *Minores*, the *Earls*, *Barons*, and greater *Tenents in Capite*, and the less, which then were the *Community* of the Kingdom.

The great, and lesser Barons, are sometimes comprehended under the words *Magnates*.

A The next is the *Statute de Begamis*, made in the Fourth of Edward the First, the *Preamble* whereof runs thus. *In presentia venerabilium patrum, Quorundum Episcoporum Anglie, & aliorum de Consilio Regis, Recitatae fuerunt Constitutiones subscriptae, & postmodum Coram Domino Rege, & Consilio suo audita & publicata, Quia omnes de Consilio tam Justiciarum quam alii concordaverunt, Quod in Scripturam redigerentur ad perpetuam memoriam, & Quod firmiter observentur.*

Tottells Stat. p. 39. b. Cok. 2. Instit. f. 267. Statute De Begamis made in 4 Edw. 1.

B In the presence of the Venerable Fathers, some of the Bishops of England, and others of the Kings Council, the underwritten * *Constitutions* were recited, and afterwards, they were heard or read, and published before the King and his Council, because all of his Council, as well *Justiciaries*, as others agreed, that they should be written for perpetual memory, and firmly observed.

* That is the Statute it self. Quia, in this place, instead of *Because*, might have been translated (*and then*) for so it signifies, many times, in old Monks, and legal Latin. Ibid.

C From these words, and none other, Sir Edward Coke observes the ancient Order, as he says, of proceeding in Parliament for passing of Bills; First, That a select Committee of certain Bishops, Barons, and some of the Commons, with the Judges assistance, expressed under the words, *Et aliorum de Consilio Regis*, (for at this time, he says, the Lords and Commons sate together) and after the Committee of both Houses had resolved hereupon, then to report it to the whole Council, here expressed under these words (*Audita & publicata*) which order in the several Houses is continued to this day. If I say, I cannot see any such sense, or meaning in the words, and leave it to my Judicious Readers to find it out, I hope they will excuse me.

Sir Edw. Cokes straining of words to a sense they cannot bear. Q. If they sate together, how they were two Houses?

E From the *Preamble*, Sir Edward goes on to the first Chapter of the Statute, which begins thus, *De placitis ubi tenens excipit, Quod sine Rege Respondere non possit: Concordatum est per Justiciarios, & alios Sapientes de Consilio Regni Domini Regis, &c.* Concerning Pleas, where the Defendant excepts, that he cannot Answer without the King, it was agreed by the Justices, and other Wise, or Sage Men of the Council of the Kingdom of the Lord the King, &c.

Ibid. f. 268. Tottells Stat. ut supra.

- Per Justiciarios, & alios Sapientes de Consilio Regni Domini Regis. Here, says Sir Edward, was used the ancient forms of Parliaments when the Acts were, *Rex ex Consilio Sapientum, &c.*

Ibid. Sir Edw. Coke understands not the meaning of the word *Sapientes* in the Saxon Laws. Ibid.

F At a Parliament holden by King Inas, Anno Domini 727. the Statutes began thus; *Ego Inas Dei beneficio Rex, suasu & instituto Cenredi patris mei, Hedde & Erkenvaldi Episcoporum meorum, omnium Senatorum Meorum, & natu majorum Sapientum populi mei, in magna servorum Dei frequentia, &c.* Here is the Parliament expressed as it continueth to this day: and adds to the same purpose

some part of the *preambles*, to the *Laws* of King *Alured*, *Ethelstan*, and *Ethelred*, which are much according to the *same sense*, and *form*. Here is indeed *short work*, and a *positive assertion*, but with what understanding, and reason it was made, I refer the Reader to what hath been *said* in this *Discourse*, of the *Saxon Councils* or *Parliaments*, and what is said in the *Glossary* in the word *Sapientes*.

Whether this was a Parliament, or what were the Constituent parts of a Parliament at this time, or of this Parliament in particular, I think it is neither so *easy*, nor *plain* to determine, as Sir *Edward* would have it to be; Perhaps the best *understanding* of the *Preamble* and *First Chapter* may be, that their *Laws* and *Constitutions* were *prepared* by the *King* and his *Council*, with the assistance of the *Justices* and *Lawyers* that were of it, or called to assist in it, and *declared* afterward in *Parliament*; For it's said in the Close of the Statute, *Prædictæ autem constitutiones editæ fuerunt apud Westmonasterium, in Parlamento post festum Sancti Michaelis, Anno Regni Regis Edwardi filii Regis Hen. quarto; Et extunc locum habeant.*

Tottell's Stat.
p. 40. b.
2 Instit f. 275.

Ibid. p. 41. a.
Cek. 2 Instit.
f. 277.
Vid. Stat. de
Quo Warranto,
30 Edw. 1.
In the second
Institute, in-
stead of *pur-
veant mesme le
Roy*, as it is in
Tottell, it is
*survien ante
mesme le Roy.*
Tottell's Stat.
f. 40. b.
2 Instit f. 271.
The Constitu-
ent parts of
that Parlia-
ment which
made the Sta-
tute of *Westm.*
the second,
13 Edw. 1.

Statute of
Mortmain
made by the
King and his
Council,
Tottell's Stat.
p. 48. a.

Ibid. p. 49. a.
Statute of
Acton Burnel,
made by the
King and his
Council,
11 Edw. 1.
Ibid. p. 82. b.

After this we shall observe the *Preamble* of the Statute of *Gloucester*. *Lan du Grace 1267. & del raigne le Roy Ed. firs le Roy Henry 6. a Gloucestre le moys Daugust, purveant mesme le Roy, pur amendment de son Roialm, & pur pluis pleiner exhibition de droit, sicome le profit doffice demande, Apelles le pluis discrettes de son Roialme, auxibien des Greinders come des Meinders, Establie est, & Concordantment ordine, &c.* The year of our Lord is here mistaken, for it should be 1278. which was the sixth of *Edw. 1.* This *Preamble* is almost the very same with the *Preamble* to the Statute of *Marlebridge*, and therefore shall say nothing further of it, and will only add, that by the *Preface* to the Statute of *Westminster* 2. made in the 13 of *Edw. 1.* it appears, that the *Prelats*, *Earls*, *Barons*, and the *Kings Council* were the *Constituent parts* of this or some other *Parliament* held at *Gloucester* that year. *Cum nuper Dominus Rex, in Quindena Sancti Johannis Baptista, Anno Regni sui sexto, Convocatis Prelatis, Comitibus, Baronibus, & Concilio suo, apud Glocestre. Quia plures de Regno suo, &c.*

The Statute of *Mortmain*, was made by King *Edward* the *First*, in the *Seventh* year of his *Reign*, by Advice of the *Prelats*, *Earls*, *Barons*, and other *Lieges* of his *Kingdom*, being of his *Council*. *Nos pro utilitate Regni Congruum volentes providere Remedium, de Consilio Prelatorum, Comitum, Baronum, & aliorum fidelium Regni nostri de Concilio nostro Existendum, providimus, Statuimus, & Ordinavimus, Quod nullus Religiosus, &c.*

The Statute of *Acton Burnel*, or Statute Merchant in the *Eleventh* of *Edward* the *First*, was made by the *King* himself and his whole *Council*, *Le Roy per luy & per tout son Counsel, ad ordain & establie, Que Merchant, &c.* And this was done in *Parliament*, as appears by the Statute of *Merchants* made in the *Thirteenth* year of the same King. *Nostre Seigniour le Roy per luy, & per son Counsel, a son Parlement quil tient a Acton Burnel, apres la Seint Michael, lan de son Raign 11. fist & Ordeign, les Establishments, &c.* Our Lord the King by himself, and by his *Council*, at his *Parliament* which he held

held at *Acton Burnel*, in the Eleventh year of his Reign, made and ordained these Establishments, &c.

In the Eighteenth year of this King on the first of *June*, the *Prelats, Earls, Barons*, and great Men of the Kingdom, with *one assent* in full Parliament, granted to him forty shillings of every Knights Fee, for an Ayd to Marry his Daughter, for *themselves*, and the whole Community of the Kingdom, as by Record appeareth.

Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus, & omnibus aliis de Comitatu Cantie salutem, Sciatis Quod cum primo die Junii Anno regni nostri decimo Octavo, Prælati, Comites, Barones, & Ceteri Magnates de Regno nostro Concor-diter pro se, & Tota Comunitate ejusdem Regni, in pleno Parlamento nostro nobis Concesserint Quadraginta Solidos de Singulis Feodis Militum in dicto Regno, in auxilium ad primogenitam filiam nostram mari-tandam, levandos sicut hujusmodi Auxilium, alias in casu Consimili concessum, levare consuevit, cujus quidem Auxilii Levationi faciendæ, per dictæ Comunitatis assensu, hucusque supersedimus gratiose, Assignavimus dilectos & fideles nostros, Vicecomitem nostrum comitatus prædicti & Ricardum de Rokele, ad prædictum Auxilium Quadriginta solidorum de singulis Feodis Militum prædictis infra comitatum prædictum ad opus nostrum levandum & Colligendum. Ita Quod unam medietatem ejusdem auxilii habeant ad scaccarium nostrum in Octabis purificationis beatæ Mariæ proximo futuris, & aliam medietatem in crastino Ascensio-nis Domini proxime sequenti, Thesaurario & Camerario nostris ibidem li-berandas. Et ideo vobis Mandamus, Quod eisdem Vicecomiti & Ricardo in premissis intendentes sitis & Respondentes. In cujus, &c. Teste Rege apud Westminster 7 die Novembris.

*Rot. Pat. 30
Ed. 1. m. 1.*

Forty shillings of every Knights Fee, given by the Prelats, Earls, Barons, and great Men for themselves and whole Community of the King-dom.

Hitherto in this Kings Reign there appears nothing, that can evince, either the summoning, or being, of *any Commons*, as now understood, or *any Knights, Citizens, or Burgeses*, in *any* of these Parliaments. We are at least left in uncertainties, nay the proof is most strong on the Negative, that there were none.

Yet in this year there is a *Bundel* of *Writs* directed to the Sheriffs of severall, or most of the Counties of *England*, and they are the ancientest extant, or perhaps that ever were, (for in probability the calling of *Knights, Citizens, and Burgeses*, according to that example, was discontinued from the 49 of *Hen. 3.* unto this time) by which two or three Knights were directed to be chosen for each County: The Writ it self follows.

*Writs for
Electing
Knights, 18
Edw. 1.*

Edwardus Dei gratia Rex Anglie, Dominus Hib ernie, & Dux Aquitania vicecomiti Westmerlandie salutem, Cum per Comites, Barones, & quosdam alios de proceribus Regni nostri, nuper fuisset super quibusdam Specialiter requisiti, super Quibus, tam cum ipsis, quam cum aliis de Comitibus Regni illius Colloquium habere volumus & Tractatum, Tibi precipimus, Quod Dux vel tres de discretioribus, & ad laborandum potentioribus Militibus, de comitatu prædicto sine Dilatione Eligi, & eos ad nos usque Westmonasterium venire facias, ita Quod sint ibidem, a die Sancti Johannis Bapt. prox. futur. in tres septimanas ad ultimum, cum plena potestate pro se & Comunitate comi-tat.

*Bundel of
Summons to
Parliament,
18 Edw. 1.*

Two or three Knights to be chosen for a County.

tat. predicti, ad Consulendum & Consentiendum, pro se & communitate illa, P^{ri}is Que C^{on}ites, Barones, & P^{ro}ceres predicti, tunc duxerint concordanda, & habeas ibi hoc Breve. T. meipso apud Westmonast. 14 die Jun. Anno regni nostro 18.

Edward by the Grace of God King of England, Lord of Ireland, and Duke of Aquitan, to the Sheriff of Westmerland, Greeting. Whereas we have been especially *Petitioned* and *Requested*, by the Earls, Barons, and others of the great Men of our Kingdom, concerning certain matters, upon which we will have *Conference* and *Treaty*, as well with *themselves*, as with *others* of the Counties of that Kingdom, We Command thee, that without delay, thou makest to be chosen, two or three of the more discreet, and ablest Knights for dispatch of Business, of the County aforesaid, and cause them to come to us at *Westminster*, so that they be there, in three weeks after the Feast of St. John Baptist at furthest, with full power for themselves, and the whole Community of the County aforesaid, to *consult* and *consent*, for themselves, and that Community, to such things, which the Earls, Barons, and great Men aforesaid, shall then think fit to agree upon, and you are to have there this Writ. Witness my self at *Westminster*, the Fourteenth day of *June*, in the Eighteenth year of our Reign.

On the first of this Month the King had Scutage given him in full Parliament: Fourteen days after, at the *instance* of the Earls, Barons, and other great Men of the Kingdom, upon certain matters by them *moved*, and *propounded* to him, He issued this Writ of Summons to the Sheriffs of the several Counties, to cause to be chosen, two or three Knights of each County, to come to him at *Westminster*, three weeks after St. John Baptist (which is the Eighth of *July*) at farthest.

Upon this Writ, it may be observed, first, that it is most probable, (though it is not here absolutely said so) that the King was *moved* by the Earls, Barons, and great Men of the Kingdom to call these Knights to this *Parliament*; and that as this *Writ* is the *first* to be found after that of the 49 of *Hen. 3.* so it really was the *first Writ* of Summons after that time, for the *Election* of Knights to represent the several Counties.

Secondly, That there could be *no Citizens, nor Burgeses chosen*, or sent to this *Parliament* by virtue of this Writ, as there were afterward by directions contained in the Writs sent to the Sheriffs for *Electing Knights* of the Shire.

Thirdly, That by this Writ, the Knights were to come to the King at *Westminster*, three weeks after St. John Baptist at farthest, which was the *fifteenth* of *July*; that in the same year, between the time of the date of the Writ, and the time appointed for meeting of the Knights, the Statute of *Westminster* the third was made. Dominus Rex in Parlamento suo apud Westmonasterium post pascha Anno Regni sui decimo Octavo, videlicet in Quindena Sancti Johannis Baptiste, (that is the Eighth of *July*) ad instantiam Magnatum Regni sui Concessit, Providit, & Statuit, Quod de cetero liceat unicuique

The King was in probability moved by the Earls, Barons, and great Men to call Knights of Shires.

Tottells Stat. p 85. b.
2 *Instit. f. 500.*
The Statute of *Westminster* the third, seem to have been only by the King and Barons.

unicuique libero homini, &c. So that this was either the same full Parliament, which gave the King *Scutage* on the first of June, and then the King and Barons without the Commons, made this Statute, or the Knights had another Summons after the date of this Writ, (for before that they were not in the Parliament) or the Knights came a week before they had need to have done, but neither of the latter, are probable, seeing the Knights then were great Husbands of their Time and Expences, and were not very forward to undertake this Service, as being constantly bound with, or engaged by Sureties, or Manucaptors, for the performance of it, and their appearance in Parliament; and therefore it seems reasonable to conclude, that this Law was made without them, and before their coming to Parliament.

So much of this Writ; From which, and the variation of the following Writs, and other Records, it is most evident, that it was from the Kings Authority and time that the House of Commons came to be fixed, and established in the present constant form, it now is, and hath been in, for many Kings Reigns, and that the King in this Age was not altogether confined to any certain number of Knights, Citizens, or Burgesses, nor were several strict forms and usages now practised, ever then thought of, or some legal niceties and punctilio's now in use, then judged absolutely necessary.

Rex Vic. Northumbr. Salutem. Quia cum Comitibus, Baronibus & ceteris Magnatibus de regno nostro super quibusdam negotiis arduis nos & idem regnum nostrum contingentibus, in Crast. Sancti Martini prox. futur. apud Westm. colloquium habere volumus & tractatum. Tibi precipimus quod eligi facias duos Milites de discretioribus, & ad laborandum potentioribus de Com. predicto, & eos ad nos usque Westm. venire facias. Ita quod sint ibi in Crastino predicto, cum plenâ potestate pro se & totâ Communitate, Com. predicti, ad consulend. & consentiend. pro se & Communitate illâ, hiis que Comites, Barones, & Proceres predicti concorditer Ordinaverint in premissis, Et ita quod pro defectu potestatis, hujusmodi idem negotium infectum non remaneat, & habeas ibi hoc Breve. Teste Rege apud Westm. 8 die Octobr.

Consimiles Literæ singulis Vice-comitibus Angliæ, T. ut supra.

Rex Vic. Northumberl. Salutem. Cum nuper tibi precipimus quod Duos Milites de discretioribus & ad laborandum potentioribus ejusd. Comitatus de consensu ejusdem eligi. Et eos ad nos usque Westm. in Crast. Sancti Martini prox. futuro, cum plenâ potestate pro se & totâ Communitate ejusd. Com. venire faceres, ad consulend. & consentiend. pro se & Communitate illâ hiis que Comites, Barones, & Proceres de regno Nostro in dicto Crastino ordinabunt, Tibi precipimus firmiter injungentes quod præter illos Duos Milites Eligi facias alios Duos Milites Legales & ad laborandum potentes & eos unâ cum dictis Duobus Militibus usque Westm. venire facias, ita quod in dicto Crastino sint ibidem ad audiend. & faciend. quod eis tunc ibidem plenius injungemus. Et hoc nullo modo Omittas. Et habeas ibi hoc breve. Teste Rege apud Westm. 9 die Octobris.

Eodem modo Mandatum est Singulis Vicecom. Angliæ Mutatis mutandis. T. ut supra.

Cl. 22 Edw. 1
m. 6. Dorso.
De Militibus
Eligendis &
Misendis ad
Consilium.

Pro Rege de
aliis Militibus
cum prioribus
intendendis ut
supra.

The King in
this Age not
confined to a
certain num-
ber of
Knights.

Rex.

l. 28 Edw. I.
m. 3. Dorl.

Edw. I. began
his Reign,
O^o. 16. 1:72.

Rex. Vicecom. Cumberl. salutem. Cum nuper pro communi utilitate Populi Regni nostri concesserimus, quod Charta de Foresta in singulis suis Articulis firmiter observaretur, assignando quosdam de fidelibus nostris in singulis Com. ejusdem Regni in quibus Foresta nostrae existunt ad perambulationem in iisdem Forestis faciend. Ita quod perambulationem illam distincte & aperte factam ad Nos, antequam aliqua executio, vel aliquid aliud inde fieret, reportarent, & quod Juramentum nostrum, jus Coronae Angliae, rationes, & calumpniae nostrae nec jus rationes & calumpniae aliorum omnium salvae forent. Nos licet dicti fideles nostri nunc primo ad Nos detulerint quod fecerint in negotio memorato, quia tamen Praelati, Comites, Barones & Ceteri Magnates dicti regni in quorum praesentia, nostras & aliorum proponi, & audiri volumus rationes, & de quorum Consilio in eodem negotio, prout alias diximus, intendimus operari; Maxime cum ipsi ad observand. & manutenend. jura regni & coronae praedictae una nobiscum juramenti vinculo sint astricti, juxta latus nostrum tunc temporis non fuerunt: ac pro eo similiter, quod illi qui suas rationes, quatenus illud negotium eos tangit proponere habebant, inde praemuniti non erant, eidem negotio, sine ipsorum Consilio finem imponere non petuimus bono modo: Et quia negotium illud quantum possumus cupimus maturari, ita quod per nos non stet quin absque ulterioris dilationis incommodo effectum debitum sortiatur; volentes cum Praelatis, Comitibus, Baronibus & Magnatibus supradictis, ac aliis de Communitate dicti Regni, Super hoc & quibusdam aliis arduis negotiis, nos & statum Regni praedicti tangentibus habere colloquium tractatum. Tibi praecipimus firmiter injungendo, quod venire facias coram nobis ad Parliamentum nostrum apud Lincoln, in Octab. Sancti Hillarii prox. futur. duos Milites de Ballivâ tuâ; Illos videlicet qui pro Communitate Com. praedictae ad Parliamentum Nostrum ultimo praeteritum per praepceptum nostrum venerunt: Et etiam de qualibet Civitate infra Balivam tuam eosdem Cives, & de quolibet Burgo eosdem Burgenses qui ad praedictum Parliamentum nostrum alias sic venerunt. Et si forte aliquis Militum, Civium aut Burgensium praedictorum mortuus fuerit aut infirmus, per quod ad dictos diem & locum venire nequeverint, tunc loco illius Mortui aut infirmi unum alium idoneum ad hoc eligi & ad dictum Parliamentum nostrum venire facias. Ita quod Milites, Cives, & Burgenses praedicti dictis die & loco modis omnibus intersint cum plenâ potestate audiendi & faciendi, ea quae ibidem in praemissis Ordinari continget pro communi commodo dicti Regni. Et eisdem militibus de Communitate Com. praedicti, civibus de civitatibus & Burgensibus de Burgis praedictis rationabiles expensas suas habere facias, in veniendo ad dictum Parliamentum nostrum, ibidem morando & etiam redeundo. Tibi insuper praecipimus sicut prius, quod per totam Balivam tuam sine dilatione publice facias proclamari. Quod omnes illi qui terras aut Tenementa habent infra metas Forestae nostrae in Ballivâ tuâ & qui perambulationem in aliquo calumpniari voluerint, quod sint coram nobis in Parlamento nostro praedicto ostensur, in hac parte rationes suas & calumnias si quas habent, & habeas ibi nomina praedictorum Militum, Civium & Burgensium & hoc Breve. T. Rege apud le Rose, 26 die Septembris.

A

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E

F

Some of the Returns Annexed to these W R I T S.

Nomina Militum de Comitatu. Lincoln. Duorum Civium de qualibet Civitate, & Duorum Burgensium de quolibet Burgo, infra Com. prædict. viz. Eorum qui ad Parliamentum ultimo præceptum venerunt & securitatem quam michi fecerunt ad veniend. ad Parliamentum. Nunc tenend. Patent in sequenti. Manucap. Tho. fil. Eustachii unius Militis Com. prædict. 4. there returned after his Name: Man. Tho. de Burnham alterius Militis, 4. there listed. Man. Stephani de Cranham unius Civis Civitat. Lincoln. 4. Man. unius Burgensium de Grymsby, 4. Alterius Burgens. 4. there named.

Lincoln.

Milites Electi, Petr. de Dennairston nunc electus est loco Johannis de Bisbake, qui infirmus est qui Manucap. per duos. Johannis de Peyton manuc. est per 2.

Suff.

Eligi in pleno Com. Glouc. feci loco unius Militis gravi infirmitate detent. alium Militem nomine Richardi de Croupes per Assensum ipsius Comitatus, &c.

Glouc.

Robertus Pogers Miles, qui ad Parliamentum ultimo præteritum venit, infirmus est, in loco ipsius Roberti, Gerardus de Braybroke Miles electus est, & manucapitur per 4. there returned. Burgenses 2. de Agnundesbam, qui ad ultimum Parliamentum venerunt, Manucap. per 4. Manucaptors for either. Johannes de la Lude Burgensis Wycumbe electus est loco Stephani Ayet, qui fuit ad ultimum Parliamentum, pro eo quod idem Stephanus infirmus est: Manuc. pro 4.

Bucks.

Qui Reginaldus de Ferrers & Robertus Beaupill Milites, qui alias fuerunt ad Parliamentum per Electionem Com. non sunt potentes ad laborand. ad presens, Electi sunt loco eorum Henricus de Ralegh & Nicholas de Kyrkton, who found 4 Manucaptors apiece there returned.

Devon.

Nomina civium Exon. Hen. de Bokwell, Johannes Farthein, loco Nicholai Page, qui impotens est.

Exon.

*It is commonly Storied (but Erroneously) that this whole Parliament, or at least the Temporal Lords and the Commons, wrote to the Pope, concerning the Jurisdiction and Superiority of the Kings of England over the Kingdom of Scotland. But it cannot be so, for this Parliament Met on the Octaves of Hillary, or the 20th of January, and sate but eight days; The Writs for the Commons Expences bear date, January 30, of the same year, and the Letter to the Pope, Signed by the Temporal Lords, for themselves, and the whole Community of the Kingdom of England, is dated Febr. 12. next following at Lincoln, after the Commons had been discharged 14 days. So that the Barons still continued to stile themselves the * Community of England, and such both Spiritual and Temporal Barons, and others of the Kings Council, did stay and dispatch much Business, after all others were dismissed, according to the Tenor of the following Proclamation, and may be fully proved from the Proceedings of that Parliament, as they are to be found in Reley's Placita Parliamentaria, f. 241, &c.*

* Vid. In Glossar Communitas Terræ.

Puis apres le 21 jour de Marz fu fait une crie par commandement le Roi en cestes paroles.

33 Edw. 1.
Ryley's Placita
Parl. fol. 241.

ERcevesqs, Evesqs & autres Prelatz, Countes & Barons Chivalers des Countez, Citizeins & Burgeys & autres gentz de la commune que cy sont venuz al mandement nostre Seigneur le Roy a cest Parlement, le Roy les mercy mult de leur venue & vuet que quant a ore qu'il retournent en leur pais ; Issint qu'il renueignent prestement & sanz delai quele houre qu'il soient autre foiz remandez sauve les Evesqs Countes & Barons Justices & autres qui sont du Conseil nostre Seigneur le Roy que ceux ne sen allient sanz especial conge du Roy. Et ceux qui ont a busoigner que ceux demorgent a sivre leur busoignes. Et les Chivalers qui sont venuz pur les Countez, & les autres qui sont venuz pur les Citez & les Burghs sivent a Sire Johan de Kirkeby & il leur fra avoir Brefs d'avoir leur despenses en leur pais. Et lavantdit Johan de Kirkeby par la reson de la Crie avantdite les nonns de Chivalers qui vindrent pour les Countez & les nonns des autres qui vindrent pur les Citez & Burghs livera au Chanceler, & fist crier que touz y ceux qui voussissent brefs sivre de leur despens sicome desus est dite sivrissent illoques pour leur brefs.

Then after, on the One and twentieth day of March, Proclamation was made, by Commandment of the King, in these words.

THe King gives the Arch-Bishops, Bishops, and other Prelats, Earls, and Barons, Knights of Counties, Citizens and Burgeses, and other Persons of the Commons, which by our Lord the Kings Command, came to this Parliament, many thanks for their coming ; and Willet that at present they return into their Countries, so as they readily and without delay, do come again at the time when they shall be remanded, except the Bishops, Earls, and Barons, Justices and others, which are of the Kings Council, who may not depart without special leave of the King : and those which have Business must stay, to follow it : and the Knights that come for Counties, and the others that come for Cities and Burghs may apply themselves to Sir John de Kirkeby, and he shall cause them to have Writs for their Expences in their Countries : and the aforesaid John de Kirkeby, by virtue of the Proclamation aforesaid, shall deliver the names of the Knights, Citizens, and Burgeses to the Chancellor ; and Proclamation was made, that all such as would sue for the Writs of Expences, should do it as above is said.

This was neither *Prorogation* nor *Adjournment* according to the present method, but rather a *dismission*, with order to come again upon *Re-summons*. This Parliament met on Sunday after the Feast of St. Matthias the Apostle, which Feast is Febr. 24. and sate about three weeks, according to this Proclamation, and the Writs for the Expences of the Commons, bearing date March the Twenty third next following.

Claus.

The Parliament dismissed, to come again upon Resummons.

After the Dismission, the King and Council answered the Petitions, See Ryley's Placita Parliamentaria, f. 241, &c.

Claus. 23. E. 1. m. 4. Dorfo.

R Ex Vicecomiti Northampton, salutem, Quia cum Comitibus Baronibus & ceteris Proceribus Regni nostri super remediis contra pericula quæ eidem Regno hiis diebus imminent providendum, colloquium habere volumus, & tractatum per quod eis mandavimus quod sint ad nos die dominica proximo post festum Sancti Martini in hyeme proximo futurum, apud Westminster ad tractandum, ordinandum, & faciendum, qualiter sic hujusmodi periculis obviandum, tibi precipimus firmiter injungentes, quod de Comitatu prædicto duos Milites & de quolibet Civitate ejusdem Comitatus duos Cives, & de quolibet Burgo duos Burgenses, de discretioribus & ad laborandum potentioribus, sine dilatione eligi, & eos ad nos ad prædictos diem & locum venire facias, ita quod dicti Milites plenam & sufficientem potestatem pro se & Communitate Comitatus prædicti, & dicti Cives & Burgenses pro se, & Communitate, Civitatum, & Burgorum prædictorum, divisim, ab ipsis, tunc ibidem habeant ad faciendum quod tunc de Communi consilio ordinabitur in præmissis, ita quod pro defectu hujusmodi potestatis negotium prædictum infectum non remaneat quoquo modo, & habeas ibi nomina Militum, Civium, Burgensium, & hoc breve. Teste Rege apud Cantuariam tertio die Octobris.

C Consimiles literæ diriguntur singulis Vicecomitibus per Angliam & de eadem data.

R Rex venerabili in Christo patri R. eadem gratia Cantuariensi Archiepiscopo, totius Angliæ Primati, salutem, sicut lex justissima provida circumspeditione sacrorum principum stabilita, hortatur, & statuit, ut quod omnes tangit, ab omnibus approbetur; Sic & innuit, evidenter, ut communibus periculis, per remedia provisa communiter obvietur; Sane satis nostris & jam est ut credimus per universa mundi climata divulgatum, qualiter Rex Franciæ de terra nostra Vasconiæ nos fraudulenter, & cautelose decepit, eam nobis nequiter detinendo, Nunc vero prædictis fraude, & nequitia, non contentus, ad expugnationem Regni nostri classe maxima, & Bellatorum copiosa multitudine congregatis, cum quibus regnum nostrum & Regni ejusdem incolas hostiliter jam invasit, linguam Anglicam si conceptæ iniquitatis proposito destabili potestas correspondeat, quod Deus avertat, omnino de terra delere proponit, Quia igitur previsa jacula minus ledunt, & res vestra maxime sicut ceterorum regni ejusdem concivium, agitur, in hac parte vobis mandamus in fide & dilectione quibus nobis tenemini, firmiter injungentes, quod die dominica proxima post festum Sancti Martini in hyeme proximo futurum, apud Westminster personaliter interstitis Premunientes Priorem & Capitulum Ecclesiæ vestræ, Archidiaconum totumque Clerum vestræ Diocesis, facientes quod iidem Prior & Archidiaconi in propriis personis suis, & dictum Capitulum per unum, idemque Clerus per duos procuratores idoneos, plenam & sufficientem potestatem ab ipsis Capitulo, & Clero, habentes, una vobiscum intersint, modis omnibus, tunc ibidem, ad tractandum, ordinandum & faciendum, nobiscum, & cum ceteris Prelatis & Proceribus, & aliis incolis Regni nostri, qualiter sic hujusmodi periculis & excogitatis maliciis obviandum, teste Rege apud Wengeham tricesimo die Septembris.

De Parlamento tenendo.

Two Knights, two Citizens, and two Burgesses chosen, &c.

Cl. 23 Ed. m. 4. Dorf.

The Procurators or Clerks of the Clergy were to treat, ordain, do, &c.

The Incola Regni, were the Knights, Citizens, and Burgesses, mentioned in the former Writ, but not here enumerated.

Ibidem.

Consimiles literæ diriguntur Episcopis Elyen. Norwyc. Winton. & Roff. & de eadem data. Et etiam sub eadem forma scribitur Episcopis Danelm. Karl. & de eadem data.

Ibidem.

Consimiles literæ diriguntur Archiepiscopo Eborum Episcopis London. Lincoln. Cicestr. Exon. Heref. Sarum, Assanen. Bangoren. Electo Meneven. vel ejus vices gerenti & Episcopo Landaven. usque ibi premunientes & tunc diciter premunientes Decanos & Capitula Ecclesiarum suarum Archidiaconum totumque Clerum suarum Diacessum facientes quæ quod iidem Decani & Archidiaconi in propriis personis suis & dicta Capitula per unum, idemque Clerus per duos procuratores idoneos plenam & potestatem sufficientem ab ipsis Capitulis & Clero habentes una, &c. ut supra. Teste ut supra.

Ibidem.

Consimiles literæ diriguntur W. Bathon. & Wellen. Episcopo & R. Coventr. & Lich. Episcopo usque ibi premunientes, &c. & tunc dicitur premunientes Priorem & Capitulum Bathon. & Decanum & Capitulum Wellen. Ecclesiarum suarum nec non Archidiaconum & Clerum, &c. & in alio brevi dicto Coventr. & Lich. Episcopo & dicitur sic Premunientes Priorem & Capitulum Coventr. & Decanum & Capitulum Lich. &c. ut supra. Teste ut supra.

Ibidem.

The Incolæ Regni were the same here as in the former Writ.

Sub eadem forma scribitur Abbati Sancti Augustini Cantuariæ usque ibi vobis mandamus in fide & dilectione quibus vobis tenemini firmiter injungentes quod die dominica proxima post festum Sancti Martini in hyeme proxima futura apud Westminster personaliter intersitis ad tractandum ordinandum & faciendum nobiscum & cum ceteris Prelatis & Proceribus & aliis incolis Regni nostri qualiter sic hujusmodi periculis & Excogitatis maliciis obviandum. Teste ut supra.

Ibidem.

Consimiles literæ & sub eadem data diriguntur Abbatibus subscriptis, N. 70.

Exempti. {
*Abbati de Sancto Edmundo.
 Abb. de Waltham.
 Abb. de Sancto Albano.
 Abb. de Evesham.
 Abb. de Alnewyk.
 Abb. de Egleston.
 Abb. de Sancta Agatha.
 Abb. de Barlings.
 Abb. de Thenenpholm.
 Abb. de Byleye.
 Abb. de la Dale.
 Abb. de Nenhus.
 Abb. de Cokerfond.
 Abb. Croxton.
 Abb. de Sancta Radegund.
 Abb. de Herpe.*

Exempti. {
*Abb. Tichefeld.
 Abb. de Suleby.
 Abb. de Lawenden.
 Abb. de Torre.
 Abb. de Weflebeck.
 Abb. de Hales.
 Abb. de Bello Capite.
 Magistro Militiæ Templi in Anglia.
 Priori Hospit' in Angliæ.
 Magistro Ordinis de Sempringham.
 Exempti. {
*Abb. de Furneys.
 Abb. de Sallay.
 Abb. de Holm Coltram.
 Abb. de Novo Monasterio.
 Abb. de Joreval.**

Abbati

Abbati de Fontibus.
Abb. de Bella Landa.
Abb. de Mella.
Abb. de Kirkestedes
Abb. de Rupe.
Abb. de Ruhgford.
Abb. de Valle dei.
Abb. de Gerndon.
Abb. de Stanle in Arderne.
Abb. de Pippewell.
Abb. de Cumbe.
Abb. de Blanca Landa.
Abb. de Basingwerk.
Abb. de Cumbermere.
Abb. de Crokefden.
Abb. de Valle Regali.
Abb. de Deula Cresse.
Abb. de Mira Valle.
Abb. de Stanlawe.

Abb. de Bildewas.
Abb. de Stanle in Wilts.
Abb. de Swynesheved.
Abb. de Warden.
Abb. de Boxle.
Abb. de Strattford.
Abb. de Tileteye.
Abb. de Bynedon.
Abb. de Quarrera.
Abb. de Leceleye.
Abb. de Binkeswell.
Abb. de Bello loco R.
Abb. de Sratta Florida.
Abb. de Flaxe.
Abb. de Tinterne.
Abb. de Kings Woode.
Abb. de Waverle.
Abb. de Revesby.
Abb. de Parco Ludo.

This Parliament did not meet on the Sunday after St. Martins, but was Prorogued to the Sunday next before St. Andrew the Apostle. Teste Rege apud Odmer. 2 die Novembris.

Cl. 23 Ed. 1. m. 2. Dors. de Parlamento prorogando.

Rex. Vic. Ebor. Salutem. *Præcipimus tibi firmiter injungentes, quod illos Milites, Cives, & Burgenſes de Balliva tua quos nuper ad præſens Parliamentum noſtrum apud London inchoatum de mandato noſtro venire feciſti, & qui ab eodem Parlamento certis de cauſis receſſerunt, vel alios ad hoc idoneos loco ipſorum ſi ad hoc vacare non poſſint, uſque Weſtm. ad idem Parliamentum quod ibidem duximus continuandum, venire facias. Ita quod ſint ibidem in craſtino Sancti Martini prox. futur. ad ultimum cum ſufficienti poteſtate Comitatus tui & Civitatum & Burgorum prædictorum ad conſentiendum, &c.* Teste Rege apud London 11 die Octobris.

Cl. 5 Ed. 2. m. 26. Dors.

A Precept to the Sheriffs to ſend again ſuch Members as liſt the Parliament, or to chooſe others in their ſtead.

Memorandum quod die Lunæ prox. ante feſtum decollationis Sancti Johannis Baptiſtæ, Anno Regni Regis Edwardi fil. Regis Edwardi Sexto. Dom. Rex apud Weſtm. præcepit quod Milites, Cives & Burgenſes qui ad Parliamentum Regis ibidem ſummonitum convenerant pro Communitatibus, Civibus, & Burgis Angliæ ad præſentia remearent. Ita quod reverterentur ibidem in Craſtino Sancti Michaelis prox. futur. ſub. pænâ quæ decet. T. Rege apud Weſtm. 28 die Auguſti.

Cl. 6 Ed. 2. m. 27. Dors.

The King Prorogues, or Adjourns the Houſe of Commons. And he puniſhed the Members for Abſence.

Rex. Vic. Northumb. ſalutem. *Licet nuper ſuper d'verſis & arduis negotiis nos & ſtatum Regni noſtri tangentibus Parliamentum apud Weſtm. in Quindena Sancti Andree prox. futur. tenere ac ibidem per Iſabellam Reginam Angliæ Conſortem noſtram chariſſimum, & per Edwardum filium noſtrum primogenitum, Cuſtodem ejusdem Regni, nobis extra idem Regnum tunc agentibus, atque Prelatos, Proceres & Mag-nates Regni prædicti, haberi voluiſſemus Colloquium & tractatum. Tibi præcipimus quod de commanitate Com. tui duos Milites, & de ſingulis Burgis duos Burgenſes venire faceres ad diem & locum prædictos.*

Cl. 20 Ed. 2. m. 4. Dors.

A Prorogation before Meeting of the Parliament.

Ita

Ita quod dicti Milites a Communitate dicti Com. & dicti Cives a Communitatibus dictarum Civitatum, & predicti Burgenses a Communitatibus Burgorum predict. plenam & sufficientem haberent potestatem ad consentiendum hiis que tunc ibidem de communi Consilio Regni nostri contingeret ordinari. Quia tamen quibusdam de causis necessariis & utilibus predicta Parliamentum & Tractatum usque in crastino Epiphanie Domini prox. jam. futur. apud dictum locum Westm. tunc tenend. duximus prorogand. Tibi significamus quod predictos Milites, Cives & Burgenses ad dictam quindenam apud dictum locum Westm. ex causa Parliamenti & tractatus predictorum accedere non oportet & hoc eis scire facias ex parte nostra. Tibi insuper precipimus, quod predictos Milites, Cives & Burgenses venire facias in dicto crastino apud dictum locum Westm. cum sufficienti potestate sicut predictum est. Et habeas ibi nomina predictorum Militum Civium & Burgensium, & hoc breve, & hoc nullatenus omittas. Teste R. apud Ledbury, 3 die Decemb.

Eodem modo mandatum est singulis, Vic. per Angl. sub eadem data.

Cl. 24 Edw. 3.
p. 2. m. 3. To
all Sheriffs in
England.

Quod de Comitatu tuo duos Milites, &c. de discretioribus & probioribus Militibus, Civibus & Burgensibus, & ad laborand. potentioribus, Qui non sint placitatores querelarum manutentores aut ex hujusmodi questu viventes, &c. sed homines valentes & bone fidei & publicum commodum diligentes eligi, &c. ut propter improvidam electionem Militum, Civium aut Burgensium predictorum dicta negotia nostra infecta non remaneant. T. R. apud Westm. xxv. die Novembr.

Bundel of
Writs of
Summons,
26 Edw. .
with the Re-
turns indorsed.

One Burges
only Sum-
moned.

Edwardus Dei Gracia, Rex Angl. & Franc. & Dominus Hibernie Ballivis Villæ de Sancto Bato'pho salutem. Quia pro magnis, & urgentibus negotiis & nobis subitis ad nos perlatis nos & statum ac jura Regni nostri Angliæ summe concernentibus super quibus festinum & providum oportet ordinari remedium cum Prelatis Magnatibus & Proceribus ac aliis fidelibus nostris dicti regni nostri apud Westm. in Crastino Assumptionis beate Marie prox. futur. colloquium habere volumus & tractatum. Vobis precipimus firmiter injungentes quod unum Burgensem de provectionibus & magis expertis Burgensibus ejusdem Ville sine dilatione eligi & ad dictos diem & locum venire fac. Ita quod idem Burgensis pro se & communitate villæ predictæ plenam & sufficientem potestatem habeat ad tractand. consulend. & consentiend. hiis que tunc divina favente clementia de communi consilio contigerit ordinari super negotiis antedictis, & ut homines ab ista occupatione autumnali quo minus possumus retrahamus unum tantum Burgensem de dicto Burgo ad dictum Consilium mittend. habere volumus ista vice. Et habeatis ibi nomen predicti Burgensis & hoc breve. Nos de die receptionis presencium & per quem vobis delate fuerint certificantes tunc ibidem. T. me ipso apud Westm. xx. Die Jul. anno regni nostri Angl. vicesimo sexto, regni vero nostri Franc. tertio decimo.

Per ipsum Regem & Cons.

Conf.

Conf. brevia diriguntur villis subscriptis, viz.

Majori & Ballivis Villæ Bristoll.
 Ballivis Villæ Magnæ Fernemouth.
 Majori & Ballivis Villæ de Kingston super Hull.
 Majori & Ballivis Villæ de Lenne.
 Majori & Ballivis Villæ Southampton.

*Consimilia brevia diriguntur Civibus subscriptis mutatis mutandis,
 T. ut supra.*

Majori & Ballivis Civitatis Cicestr.
 Majori & Ballivis Civitatis Ebor.
 Majori & Ballivis Civitatis Linc.
 Ballivis Civitatis suæ Norwic.

*Consimilia brevia diriguntur singulis Vic. Angl. mutatis mutan-
 dis, T. ut supra. pro uno Milite tantum.*

Edwardus Dei Gracia Rex Angl. & Franc. & Dominus Hiberniæ
 Ballivis villæ de Sancto Botolpho. salutem. Quia pro magnis & urgen-
 tibus negociis nos & statum regni nostri Angl. summe concernenti-
 bus cum prelatiis magnatibus proceribus & aliis fidelibus nostris
 dicti regni apud Westm. die Luna prox. post festum Sancti Mathei Apostoli
 proximo futur. colloquium habere volumus & tractatum vobis præcipi-
 mus firmiter injungentes, quod duos Burgenses de provectionibus &
 discretioribus & magis expertis Burgensibus Ulle prædictæ de assensu
 ejusdem Villæ sine dilatione eligi & eos ad diem & locum prædictos ve-
 nire fac. Ita quod iidem Burgenses pro se & communitate Ulle
 prædictæ sufficientem potestatem habeant ad tractand. consulend. &
 consentiend. his quæ tunc divina favente clementia de communi consilio
 contigerit ordinari super negociis antedictis. Et hoc nullatenus omittatis.
 T. me ipso apud West. xij die Julii, anno regni nostri Angl. vice-
 simo septimo regni vero nostri Franc. Quartodecimo.

Per ipsum Regem & Consil.

Conf. brevia diriguntur Burgis subscript.

Majori & Ballivis Bedds.
 Majori & Ballivis Villæ Bristoll.
 Majori & Ballivis Coventr.
 Majori & Ballivis Derb.
 Majori & Ballivis Exon.
 Majori & Ballivis de Gippewico.
 Majori & Ballivis Villæ Glouc.
 Ballivis Magnæ Fernemuth.
 Majori & Ballivis de Kingston super Hull.
 Majori & Ballivis Lincoln.
 Majori & Ballivis Villæ Northampt.

Bundel of
 Writs of
 Summons,
 27 Edw. 3.
 with the Re-
 turns indorf-
 ed.

Two Burges-
 ses.

Majori

Majori & Ballivis Villæ Nottingham.
 Majori & Ballivis Oxon.
 Majori & Ballivis Rich.
 Majori & Ballivis Villæ Salop.
 Majori & Ballivis Staff.
 Majori & Ballivis Warr.

Conf. pro Civibus mutatis mutand.

Majori & Ballivis Civitatis Ebor.
 Ballivis Civitatis Eliensis.
 Majori & Ballivis Civitatis Heref.
 Majori & Vicecom. London.
 Majori & Ballivis de Norwico.
 Majori & Ballivis de Welles.
 Majori & Ballivis Wygorn.
 Majori & Ballivis Wynton.

Bundel of
Writs of
Summons,
27 Edw. 3.
with the Re-
turns indor-
ed.

But one Kt.
for a County,
when two
Bargesses, &c.

Cl. 31 Edw. 3.
m. 2. Dorst.

Absent Mem-
bers of the
Commons
Hous. made
their Excuse
to the King.

Edwardus Dei Gracia Rex Angliæ, & Franc. & Dominus Hiberniæ,
 Vic. Bedds & Bucks salutem. Quia pro magnis & urgentibus ne-
 gociis nos & statum regni nostri Angl. summe concernentibus cum
 Prelatis Magnatibus Proceribus & aliis fidelibus dicti regni apud
 Westm. die Lune prox. post festum Sancti Mathei Apostoli prox. futur.
 colloquium habere volumus & tractatum. Tibi præcipimus firmiter
 injungentes quod unum Militem cinctum gladio de discretioribus Mi-
 litibus & magis expertis de utroque Com. prædictor. assensu eorundem
 Com. sine dilatione eligi, & eos ad diem & locum prædictos venire fac.
 Ita quod uterque eorundem Militum pro se & communitate Com.
 sui plenam & sufficientem potestatem habeat ad tractand. consulend.
 & consenciend. hiis quæ tunc divina favente clementia de communi con-
 silio contigerit ordinari super negociis antedictis. Et hoc nullatenus
 omittas. T. meipso apud Westm. xv die Jul. Anno regni nostri Angl.
 vicesimo septimo regni vero nostri Franc. Quartodecimo.

Conf. brevia diriguntur Vicecom. Ang.

Rex Vic. Kanc. &c. Tibi præcipimus firmiter injungentes, quod de
 Com. tuo duos Milites, gladiis cinctos & de qualibet Civitate com. illius
 duos Cives, & de quolibet Burgo duos Burgenses, de discretioribus &
 probioribus Militibus, Civibus & Burgensibus, Com. Civitatum & Bur-
 gorum eorundem, & de elegantioribus personis eligi, &c. Ita quod, &c.
 seu propter improvidam electionem Militum, Civium, aut Burgensium præ-
 dictorum dicta negotia nostra infecta non remaneant, &c. Et habeas ibi
 nomina prædictorum Militum, Civium & Burgensium, & hoc breve. Et
 scire facias eisdem, quod propter arduum negotiorum prædicto-
 rum & celeriore expeditionem eorundem volumus primo die Par-
 liamenti personaliter interesse, per quod nolimus, nec intendimus
 aliquem ad dictum Parliamentum summonitum quin eodem primo
 die personaliter interfuit, habere ullo modo excusatum, nec excusa-
 tionem inde admittere aliqualem. Teste R. apud Westm. 5. die
 Decembr.

*Consimilia brevia diriguntur singulis Vicecomitibus per Angliam, nec-
 non Henrico Duci Lancastr. vel ejus locum tenenti sub eadem data.*

Rex

Rex Vic. Kanc. salutem. Cum Comites, Barones, Magnates, & Communitas Regni nostri Angliæ in ultimo Parlamento nostro apud Westm. tento in auxilium expensarum quas tunc pro salvatione & defensione Regni nostri Angliæ & Navigii ejusdem Regni quam pro expeditione guerre nostre Franciæ nos facere oportebit, concesserint vobis quoddam subsidium viginti & duorum solidorum & trium denariorum levand. & percipiend. de qualibet Parochiâ dicti Regni. Ita quod qualibet Parochiâ majoris valoris auxilians sit & contributoria alteri Parochiæ minoris valoris juxta ratum, ea intentione quod dictum subsidium ad summam, quinquaginta millium librarum se attingeret. Et quia habita super levatione subsidii prædicti per nos & Consilium nostrum deliberatione diligenti, videtur eidem Co. filio, quod dicti viginti & duo solidi, & tres denarii de qualibet Parochiâ dicti Regni sic levandi ad dictam summam quinquaginta millium librarum per multum non attingunt; & sic verisimiliter formidatur, quod nobis de dicta summa quinquaginta milli in librarum ad terminos statutos juxta intentionem concessionis prædictæ responderi non potest. Nos volentes plenius informari super declaratione intentionis concessionis subsidii prædicti, qualiter levatio ejusdem celerius fieri possit & considerantes, quod onerosum esset omnes Magnates ac Milites, Cives & Burgenses, qui ad dictum Parliamentum nostrum, de mandato nostro venerant, iterum & hac causa conveniri; ordinavimus ut laboribus parcatur & expensis, cum quibusdam eorundem Magnatum Militum Civium & Burgensium prædictorum super præmissis Colloquium, habere & Tractatum. Tibi præcipimus firmiter injungentes, quod Thomam Apulzefeld, unum Militem Com. prædicti, Edmundum Horne unum Civem Civitatis Cantuar. & Joh. Spynchensfeld unum Civem Civitatis Rossen, qui pro communitate Com. & Civitatum prædict. ad dictum Parliamentum de mandato nostro venerunt, si superstitēs fuerint, alioquin socios suos qui cum eis de veniendo ad Parliamentum prædictum electi fuerunt, premunire facias; quod ipsi omnibus aliis prætermisiss & quacunque excusatione cessante, in propriis personis suis sint apud Wynton in Octabis Sanctæ Trinitatis prox. futur. ad informand. Nos & dictum Consilium nostrum, super modo & forma quibus nobis de dicta summa quinquaginta millium librarum celerius & commodius juxta intentionem concessionis prædictæ poterit responderi. Et interim diligenter inquires de numero Ecclesiarum Parochialium, & Capellarum & Præbendarum in Com. prædicto, tam in manibus secularium quam Religiosorum existentium, & Nobis de nominibus eorundem, ac de nominibus Militis & Civium prædictorum ad dictos diem & locum distincte & aperte certifies hoc breve Nobis remittens. Et hoc nullatenus omittas. T. R. apud Westm 27 die Aprilis.

Vic Surr. de premuniendo William de Cobham Militem, Thomam Dane Burgensem de Suthwicks, Petrum Somere Burgensem de Guildesford, & Johan. Bodelsham Burgensem de Blechpalegh.

Consimilia breviam diriguntur singulis Vicecom. per Angl. & Burg. sub eadem data, viz.

The Knights, Citizens, and Burgeses had Writs for their Expences in this meeting at Winchester, Cl. 45 Ed. 3. m. 22. Dorset. T. R. 17 die Junii. And though in these Writs it is expressed by these words

T

Magnum

Cl. 45 Ed. 3
m. 2. Dorset.

One Knight
for a County,
one Citizen
for a City,
one Burgess
for a Burgh,
and those named to the
Sheriff.

Magnum Consilium nostrum, yet from this *Writ of Summons* it is evident, it did the Business of a Parliament, and so no great matter for the name.

In the same manner Writs were directed to all the Sheriffs in
ENGLAND.

Cl 7 R. 2.
m. 32.

The King Dis-
chargeth one
of the Knights
of Surrey, be-
cause he was
a Banneret,
and directs
the Sheriff to
Choose ano-
ther.

Rex Vic. Surry salutem. Quia ut accepimus, tu Thomam Ca-
mops Chivaler, qui Bannerettus est, sicut quamplures antecessorum suorum
extiterunt ad essendum unum Militum venientium ad Proximum Parlia-
mentum nostrum pro Communitate Comitatus prædicti, de assensu
eiusdem Comitatus, elegisti: Nos advertentes, quod hujusd. Baneretti
ante hæc tempora, in Milit. Comit. ratione alicujus Parl. eligi, mi-
nime consuev. ipsum de officio Militis ad dictum Parliamentum pro
communitate Comitatus prædicti venturi, exonerari volumus; Et ideo
tibi præcipimus, quod quendam alium Militem idoneum & discretum
gladio cinctum loco ipsius Thome eligi, & eum ad diem & locum Par-
liamenti prædicti venire facias. Cum plena & sufficienti potestate ad
consentiend. hiis quæ in Parlamento prædicto fient, juxta tenorem primi
brevi nostri tibi pro electione hujusmodi Militum directi; & nomen
eius nobis scire facias. Teste Rege apud Westm. octavo die Octobris.

Consimile Breve dirigitur Vic. Surry pro Jacobo Berners, qui
est de retinentia Regis & familiaris & unus Militum Camere
Regis. T. R. apud Westm. 18 die Octob.

Fani

Jani Anglorum facies Antiqua :

O R S O M E

ANIMADVERSIONS

U P O N A

B O O K,

C A L L E D,

Jani Anglorum facies Nova.

With many Additions.



In the *S A V O Y*,

Printed by T. N. for Samuel Lowndes, over against Exeter-
Exchange in the Strand. MDCLXXXIV.

Animadversions

U P O N A

B O O K,

C A L L E D,

Jani Anglorum facies Nova.

AS the Controversie between Mr. *Petit* and my Self, is concerning matter of Fact only; whether the **Commons** were, or were not, constituent parts of the Government or Common-Councils, before 49 of *Hen. 3.* So it is here, whether the **Common-Council** of the Kingdom mentioned in King *John's* Charter, was a General Council, as to all publick Matters and Business of the Kingdom; and whether he hath revived and cleared the Monuments of Antiquity, touching the Great Councils of the Kingdom, &c. from the first of *William* the First, to the 49 of *Hen. 3.* But this new Face-maker, new Government-maker, and new Parliament-maker, hath observed no Order or Method, and his Work being as wild, extravagant, and confused as his Notion, I can only pitch upon some parts of his Treatise, and those the most material, which are intelligible, and pass by his impertinent and unintelligible vagaries, until such time as (if he can) he makes them to be better understood, by explaining his meaning.

That King John's Charter exhibits the full Form of our English Great and General Councils in those days; if I may so say, is the vulgar Error of our Learned Men, and 'tis that which hath given the only prejudice to the pains of the Judicious Mr. Petit, who, I must say, hath laid the Foundation and sure Rule of Understanding; the antient Records and Histories which mention the Great and General Councils in his distinctions between the Curia Regis & Commune, or Generale Concilium Regni, Barones Regis, & Barones Regni, &c.

Jan. Angl. p. 1.

Whether Judicious Mr. *Petit* doth at all understand our antient Records and Histories, or whether the better for his ungrounded distinction of *Barones Regis*, and *Regni*, I leave the Impartial Reader to judge, when he hath perused this Answer, to his antient Right of the Commons Asserted.

Vid. Answ. fol. 112.

The Author calls for the words of King *John's* Charter, to observe whether they are meant of all General or Common-Councils, for making

P. 2.

making of Laws or voluntary Gifts to the Crown, or only of such as concerned the Kings immediate Tenents.

P. 1, 3.

Nullum Scutagium vel auxilium ponam in Regno nostro nisi per Commune consilium Regni nostri nisi ad Corpus nostrum redimendum, & ad primogenitum filium nostrum Militem faciendum, & ad primogenitam filiam nostram semel maritandam & ad hoc non fiet nisi rationabile auxilium; simili modo fiat de Civitate Londinensi & Civitas Londinensis habeat omnes antiquas Libertates, & liberas Consuetudines suas tam per terras quam per aquas. Præterea volumus & concedimus quod omnes alie Civitates & Burgi & Villæ & Barones de Quinque Portibus & omnes Portus habeant omnes Libertates & liberas Consuetudines suas & ad habendum Commune Consilium Regni aliter quam in tribus Casibus prædictis.

A

From hence the new Face-maker infers, that the City of London, all Cities, Burghs, Parishes, or Townships, that is, the Villani, their Inhabitants, the Barons or Free-men of the five Ports, and all Ports should, amongst other Free Customs, enjoy their Right of being of, or constituting the Common-Council of the Kingdom.

B

Whereas the words of the Charter signifie no more than that, as in other parts of the Kingdom he would not exact Aid, without the Common-Council of the Kingdom, unless in three cases, to Redeem his Body, make his eldest Son a Knight, and Marry his eldest Daughter; So it should be in the City of London, there should be no Aid taken of such as held their Houses in Capite of the King; but in the three Cases aforesaid, or concerning the * City it self, which held in Capite, and should pay no other Aid. And that it should have all antient Liberties and free Customs, as well by Land as by Water; that is, its local Customs of Buying, Selling, Trading, paying of Toll, Regulating several Matters in the City, punishing Offenders; making By-Laws, &c. And further, that all Cities, Burghs, Towns, Barons, or Free-men of the five Ports, and all other Ports, should have all their Liberties and Free Customs; that is, their Local Usages, which were then, and yet are various and different in some things, in all the Burghs, Cities, and Towns of England.

C

D

But for the Right of the Inhabitants of these places, of being of, or constituting the Common-Council of the Kingdom. This Gentleman should not only have said, and supposed such a Right, but ought to have proved that amongst their other Customs, this was one.

E

He proceeds and says, but so much is certain, that if these (Inhabitants he means) or any besides the Tenents in Capite, came before this Charter, and were at the making of it, their Right is preserved to them by it, and is confirmed by the Charter of Hen. 3. c. 9. which are almost the same words before recited, concerning the antient Rights of London, and other Cities and Burghs.

P. 3.

P. 4.

F

If he means by those that came before, and were at the making of the Charter, such as were Members of the Great Councils, and had Suffrages or Voices in them, and not the Numbers or Rabble that then

* Pet. 15. Joh.
p. 2. m. 2.

then attended such Conventions, he must first prove that the Inhabitants of Cities and Burghs were such, before he can say they had their Rights of being Members, &c. preserved to them, as was above intimated,

A Immediately after, as an evidence of what was the Custom and Right of these Inhabitants, &c. and as to the Great Council of the Kingdom, he says, the Charters were made to, and in the presence of all the Clergy, Counts, Barons, and Free-men of the Kingdom, which proves not they had any Vote, or Suffrage in the making of them; nor indeed had they, for the Great Charters were only in the Petitions of the People, drawn into the Form of a Charter, and passed under the Kings Seal, as his meer voluntary free Grants and Concessions, without any Votes, Suffrages, or Authority of the People; and that they were taken as such, and so received by them.

B The Preambles and Charters themselves are a sufficient Testimony.

Ibidem.

Magna Charta
on Petitions
of the People
Granted by
the King.

First, King John's Charter, when he saw the Barons too powerful for him, then *Gratanter eis concederet leges & libertates quas petebant*, he willingly granted the Laws and Liberties which they asked or petitioned for.

Mat. Paris,
fol 255. n. 30.
50.

C The Preamble of the Charter runs thus, *Johannes Dei Gratia Rex Angliae, &c. Sciatis nos Intuitu Dei & pro salute animæ nostræ, &c. per Consilium venerabilium Patrum, &c. Et nobilium virorum, &c. inprimis concessisse Deo, & hac præsentī Charta confirmasse pro nobis & heredibus nostris in perpetuum, quod Ecclesia Anglicana libera sit, & habeat jura sua integræ, &c.* And in the Charter it self, *Concessimus etiam & omnibus liberis hominibus nostri Regni Angliæ, pro nobis & Heredibus nostris in perpetuum omnes libertates subscriptas habendas & tenendas eis & heredibus suis de nobis, & heredibus nostris;* (that is)

D and we have also Granted to all our Free-men of the Kingdom of England, for us and our Heirs for ever, all the under-written Liberties, to Have and to Hold to them and their Heirs, of us and our Heirs, &c.

Ibid. fol. 256.
Lin. 18.

E The Preamble of the Charter vulgarly attributed to Henry the Third, is clear in this case. *Henry* by the Grace of God, &c. Know ye, that we to the Honour of Almighty God, and for the Salvation of the Souls of our Progenitors and Successors Kings of England, to the advancement of Holy Church, and amendment of our Realm, of our meer and free will, have Given and Granted to all Archbishops, Bishops, Abbats, Priors, Earls, Barons, and to all Free-men of this our Realm, these Liberties following.

Pulton's Stat.
fol. 1.

And then as it is in the Charter it self.

F First, We have Granted to God, and by this present Charter, have confirmed for Us and Our Heirs for ever, that the Church of England shall be Free, and shall have all her whole Rights inviolable.

Ibid. c. 1.

We have Granted also, and Given to all the Free-men of our Realm, for Us and our Heirs for ever, these Liberties under-written; to have and to hold to them and their Heirs, of Us, and our Heirs for ever

ever

P. 3.

The meaning
of *Ville* in K.
F. bn's *Magna*
Charta.

Tenures,
S. A. 171.

ever, all Cities, Burghs, Parishes, or Townships; so he Translates *Ville*, as it follows *Civitates & Burgh* here in the Charter, but besides all reason in the World; for in this place *Ville & Burgh* must be all one, or at least *Ville* must be meant of the small Towns incorporated; and *Burgh* of the Great ones, or the '*Burgh Dominici*', the Kings Burghs, or such as held of him *in Capite*: *Littleton* says, *Cheescun Bourgh est une Ville, nus nemy è Converso*. Every Burgh is a Town, but every Town is not a Borough. And we have at this day many Towns in *England* which are Incorporated, and enjoy special Priviledges, though they are no Parliamentary Burghs, nor do send Burgeses to Parliament.

A

And in the Writs of Summons for Election of Parliament Burgeses.

Bundles of
Writs of Sum-
mons, 26 Ed. 3.

* *Ibidem*.

The Writs are thus most frequently Directed, as appears by the Bundles of Original Writs themselves. *Edwardus Dei Gratia Rex Angl. &c. Ballivis Ville de Sancto Botho salutem*, Edward by the Grace of God, King of England, &c. To the Bayliffs of the Town of *Boston*, Greeting. * *Cons. Brevia Diriguntur villis subscriptis, (viz.) Majori & Ballivis Ville Bristol, Ballivis Ville magna Jernemouth, Majori & Ballivis Ville de Kingston super Hul, Majori & Ballivis Ville de Lenne, Majori & Ballivis Ville Southampton, &c.* Of some of these *Ville*, must that word used in the place he cites be understood, for they were to have and enjoy *Omnes Libertates & Liberas consuetudines suas*, all their Liberties and Free Customs which they had and enjoyed before the making of the said Charter. What Liberties, what Free Customs did common ordinary Towns and Parishes ever enjoy? What Municipal Laws, what Private Laws and Priviledges had they? If they had none of these, they could not be the *Ville* here meant.

B

C

P. 4.

* Cl. 17. Joh.
M. 2. Dorf.

But the Record he says, which Mr. *Selden* cites in his *Titles of Honor*, fol. 587. in the Margin, puts it out of all doubt, that the Charter was made by them all, (*viz.*) the Clergy, Counts, Barons, and Free-men of all the Kingdom; he gives us a parcel of it, as much as he thinks serves his turn. * *Hec est Conventio inter Dominum Johannem Regem Anglie ex una parte, & Robertum filium Walters Marefcallum Dei & Sanctæ Ecclesiæ, & Ric. Com. de Clare, &c. & alios Comites & Barones & Liberos homines totius Regni ex altera parte, &c.* This is the Agreement between *John* King of England on the one part, and *Robert Fitz-Walter Marechal* of the Army of God and Holy Church, *Richard* Earl of Clare, and six Earls and six Barons more there named, and other Earls, Barons, and Free-men of the whole Kingdom. That is to say, that the Earls, Barons, and others before-written, should hold the City of *London* of the Livery and Grant of the King; and the Archbishop of *Canterbury* should hold the *Tower of London* of the same Livery and Grant, until the Oaths that all concerned were to take through the whole Nation, had been taken to observe the Commands of the * five and twenty Barons, which were chosen to compel the King to keep the Charters, &c. and for performance of other things relating thereto, the whole Record is published at the end of these Animadversions.

D

E

F

* *Paris*, fol. 261,
262.

But

But how by that he can make it out, that King John's Charter was made by all the Free-men of *England*, there seems to me not the least appearance. If under the words **Liberi homines**, all the Free-men, or Free-Tenents, of what condition soever, were comprehended; yet here is nothing in this Record, that any ways proves they made King John's Charter; but the *Liberi homines* here, were the same which the King calls *Liberi homines nostri* in his Charter, and immediately Grants them several Relaxations of the rigid Feudal Tenure, by which 'tis apparent, these *Liberi homines* were Tenents *in Capite*, and yet neither was the Charter made by them, as is before intimated. See more of *Liberi homines* in the Glossary under that Title.

Paris, fol. 256.
n. 10. 20, &c.

Liberi homines
in some places
of King John's
C. used for
Tenents in Ca-
pite.

But I will take the words together, even as they who are fond of the Conjecture of the Tenents in Capite, being the full Representative Body of the Nation would have it.

P. 6.

Et ad habendum Commune Consilium Regni de auxiliis assidendis aliter quam in tribus Casibus, & de scutagiis assidendis submoneri faciemus Archiep. Ep. Abb. & Majores Procures Regni sigillatim per litteras nostras & praterea submoneri in generali per Vice-Comites, & Ballivos nostros omnes alios qui de nobis tenent in Capite ad certum Diem, scilicet ad terminum Quadraginta dierum ad minus, & ad certum locum, in omnibus literis submonitionis Causam submonitionis illius Erponemus, & sic facta submonitione negotium procedat ad diem assignatum, secundum consilium eorum, qui presentes fuerint, quamvis non omnes submoniti venerint.

It may very well be thought these words duely weighed and understood, were sufficient to satisfy any reasonable man; that the Tenents *in Capite* were a General Council, for the dispatch of all publick Business, and making voluntary Gifts to the Crown; for by them 'tis apparent they **Aiased Aids**, which were Publick Taxes upon all Persons of the Kingdom, that were able to pay them: for so much **auxilium** doth in this, and many other Records import, as in Pat. 8, 9. Johan. M. 3. Dorl. Rex omnibus, &c. Sciatis quod per commune consilium & assensum Concilii nostri apud Oxon. provisum est ad Defensionem Regni nostri & recuperationem Juris nostri concessum est, quod quilibet laicus homo totius Angliæ de cujuscunque feodo sit, qui habet in Anglia redditus & catalla det nobis in auxilium de unaquaque mercata redditus sui annualis duodecim Denarios, & de unaquaque cujuscunque manerici catalli mobil. quam habuit in octabis purificationis B^eate Marie scilicet ad terminum Concilii xii. Denar. &c. T. meipso apud Northampton xvii. die Febr. & Pat. 8, 9. Johannis numb. 2. Rex Archi. & officiali & toto Clero Archiepiscopatus Cantuar. salutem. Nostis satis quod Archiepiscopi Episcopi Abbates Priores & Magnates Regni nostri **auxilium** nobis fecerunt ad Defensionem Regni nostri & recuperationem terrarum nostrarum. Verum quia de vobis confidimus, quod nos & honorem nostrum diligitis, & Defensionem Regni nostri, & recuperationem terrarum nostrarum affectatis. Nos rogamus attentius quatenus tale **auxilium** nobis ex parte vestra faciatis, ut inde grates vobis facere debeamus, & quod alii Rectores Ecclesiarum vicini vestri ad **auxilium** nobis faciendum exemplo vestro facilius invitentur, &c. T. meipso apud Ebor. 26 Die Maii.

The Com-
mon-Council
in King John's
Charter, a Ge-
neral Council
of the King-
dom, &c.

This Aid Paris
calls Partem
tertiam Deci-
mam, fol. 221.
lin. 49. and he
begins the
year always at
Christmass.

Note who
were the Com-
mune Consili-
um that gave
the Aid men-
tioned in the
former Record
An Aid.

Cl. 7. H. 3.
M. 23. Dorf.A Poll, or
Head-Tax.

Rex vic. Kant. salutem, Scias quod exigente necessitate terra Sanctæ de novo provisum est & concessum coram nobis & consilio nostro presentibus Archi. Cantuar. Episcopis Comitibus & Magnatibus nostris de communi omnium voluntate, quod quilibet Comes conferat Domino Regi Jerusalem in auxilium terræ prædictæ iii Marc. Baro i Marc. Miles xii Denar. Quilibet terram excolens i Denar. & quilibet qui terram non habet, catalla habens ad valenc. dimid. Marc. tam infra Civitates & Burgos quam extra similiter i Denar. &c.

A

Fol. 222.
n. 10. 20.

The xvth part of all the Moveables of England, as well of Ecclesiasticks as Laicks, which was given to Henry the Third in the Ninth of his Reign, by the Archbishops, Bishops, Earls, Barons, Abbats and Priors only, for the confirming of King John's Charter. *Mat. Paris* calls *auxilium*. See this Answer for the History of Granting that Charter, f. 125. F. 126.

B

Cl. 16. Hen. 3.
M. 2. Dorf.

The Fortieth part of all Moveables of the Subjects in general, Granted to Henry the Third the Sixteenth of his Reign, was called *auxilium* an Aid. *Concefferunt nobis in auxilium Quadragesimam partem omnium mobilium, &c.*

Cl. 21. Hen. 3.
M. 7. Dorf.

The Thirtieth part of all Moveables, &c. Granted to the same King, in the One and twentieth year of his Reign, was likewise called an *Auxilium* an Aid. *Nobis concefferunt in auxilium tricesimam partem omnium mobilium, &c.*

C

Now if (as is here shewn) by Records, before, and near the time of the Granting of King John's Charter, *Auxilia*, Aids, were a Thirteenth part of all Moveables, a Poll or Head-Tax; a fifteenth, fortieth, and thirtieth part of all Moveables of all the Subjects, and these to be assessed by the *Tenents in Capite*; not doubt but the *Tenents in Capite* were the General Council of the Nation, seeing they might Tax others besides themselves, that is, all the Subjects in the Nation.

D

Further, If they were a Great Council of the Kingdom for Aids and Escuage only (which is hardly reconcilable to Sense) why was the Cause of *Summons* to be Declared in every *Writ* of Summons to the great Barons and *Tenents in Capite*; if they were only summoned about Aids and Escuage, or other ordinary Business of course, the Cause of *Summons* needed not to have been Declared, *in omnibus Literis submonitionis causam submonitionis illius exponemus.*

E

Lastly, If all Free-men, or as our Author says in other places, all Proprietors were Members of the Great and General Council of the Nation; 'tis strange there should not have been the same care taken that they might be Summoned, as well as the *Tenents in Capite*; certainly they came not to them by Instinct, nor is it scarce probable that they would leave their Ploughs and Country Business, to travel from one remote part of England to another to these Great Councils, which seldom continued above three or four days, if they had had right so to do.

F

The truth is, there were not in William the Conqueror's Reign (as appears by an Alphabetical Catalogue made out of *Doomes-day Book*)

Book) 700 *Tenents in Capite*, besides Bishops, Abbots, Priors, and Great Church-men, that held all the Lands in *England* of him, and all others that had any Estates, held of them by mean Tenure; and therefore it seems not unreasonable to think, that they should be bound by the Acts of those of whom they held their Estates. And out of these *Tenents in Capite*, 'tis highly-probable (if not without doubt) that the two Knights were at first chosen by the other *Tenents in Capite*, in every County to represent them; and two Citizens and two Burgesses out of such Cities and Boroughs as held *in Capite* of the King, which were many, and were called *Civitates & Burgi Domini*.

And though in process of time, many of these Estates and Lands became Free-Tenements, or were holden in Soccage, that is, were Freeholds, yet the Lords retained **Homage** (which in the times we write of, was no idle insignificant word) and by that, a Dominion over the Estate, whereby upon Disobedience, Treachery; Injury done to the Lord, &c. the Lands were forfeited to them; and although the Lands nor the Tenents of them which were termed Freeholders, were not subject to any base Services, or Servile works, yet the Lords had a great Power over these Tenents, by reason of their doing **Homage** to them (which is now Antiquated) for *Eo nomine*, their Lands were many ways liable to forfeiture.

See more of several Great Councils in King *John's* and *Henry* the Third's time in this Answer, F.88.B.99, 139, 140, 141. wherein the Bishops, Earls, Barons, the *Nobiles, Magnates & Proceres* only, which very probably were the *Tenents in Capite*, that Treated with the King *de negotiis Regni, de arduis negotiis Regni, de statu Regni, &c.* and therefore were General Councils for all publick Business of the Kingdom.

They were *Barones Majores*, that held not by any Feudal Tenure, &c. And particularly instanceth in the Earldom of Chester, that the County was given to **Hugh Lupus**, *Tenendum sibi & heredibus ita verè Libère* (as *Cambden* hath it) *ad Gladium, sicut ipse Rex tenebat Angliam ad Coronam*. To hold as freely by the Sword, as the King himself held *England* by the Crown. By these words here is a Tenure created, and that *ad Gladium*, which could be no other than a Military Tenure, which was always Feudal; and this Tenure could be of no other, than either of the Conquerors Person, or of his Crown, for he gave the County to *Hugh Lupus*, and either way it was a Tenure *in Capite*, he was Sisters Son to the Conqueror, a Person of great Note amongst the *Normans*, and an expert Soldier, and had this County given him to restrain the Incursions of the *Welsh*, and enlarge his, and the Conqueror's Dominions, which was his Military-Service. In *Doomesday-Book* 'tis said, *In Cestre-scire tenet Episcopus ejusdem Civitatis de Rege quod ad suum pertinet Episcopatum. Totam Reliquam terram Comitatus tenet Hugo Comes de Rege cum suis hominibus*. In *Cheshire*, the Bishop of that City holds what belongs to his Bishoprick of the King; the whole residue of the Land of the County, Earl *Hugh* holds of the King, with his Men, who were his Military Tenents, which with his Land, he held of the King.

Glanv. lib. 9.
c. 1, 2, 5.
Homage,
what advantage to the Lord.

Ibidem.

Britan. f. 464.
The Earl of Chester was a Feudal Tenent, and held *in Capite*.

Order. vital.
fol. 522. A.
Tit. Cestre-scire.

See the Chart.
in Leiceſter's
Remar. on
Cheſh. fol. 109.

He was Founder of the Monastery of St. *Wertburgh* in *Cheſter*, and both Founded and Endowed it *Anno Dom. 1093. Concedente Rege Wilhelmo*, by the Grant and Licence of King *William*, which was *Rufus*, a manifest Token he was under his Dominion.

Pat. 31. Hen. 3.
m. 5.
The Earldom
of *Cheſter* al-
ways belong-
ed to the
Crown.
Ord. vit.
fol. 521. D. &
522. B.

And that the County or Earldom of *Cheſter* had always a Dependence upon, and did always belong to the Crown, we have ſufficient Testimony from Record, when it was annexed to the Crown, upon the death of *John Scot* Earl of *Cheſter*, without Issue, or Heirs-Male. *Rex Baronibus, Militibus, liberis hominibus, &c. de Com. Ceſtr. ſalutem, ſciatis quod prædictum, Comitatus Ceſtr. una cum Caſtris de Gamok & Diſſard & omnibus ad ea pertinentibus retinenda duximus in manu noſtra, ut ſemper ſpectantia ad Coronam noſtram, &c.*

Roger de Montgomery was made Earl of *Shrewsbury*, and *William Fitz-Osborn*, Earl of *Hereford*, by the Conqueror; upon the ſame terms that they ſhould repell the *Welſh*, and defend the Borders againſt them, and being of the greateſt amongſt the *Normans*, and *William's* chief Counſellors, had great Priviledges granted them in their Earldoms.

P. 8.

I do admit what our Author cites from *Selden*, and he from *Malmsbury*, That *William Fitz-Osborn* did make a Law, that *Nullus Miles pro quocumque commiſſo plus ſeptem ſolidis, cum in aliis Provinciis ob parvam occaſiunculam in Tranſgreſſionem præcepti herilis viginti, vel viginti quinque pendantur*. No Knight, or rather Military Tenent, for any fault, ſhould pay more than Seven ſhillings; whereas in other Counties, upon a ſmall occaſion, for the tranſgreſſion of their Lords or Patrons Command, they paid 20 or 25 s.

Domeſd. Ce-
ſtreſhire in Al-
tiſcros Hund.

This was a Private Law to Military Men, and he that gave them Fees, might give them what private Laws he would, relating to them. 'Tis further probable, he brought this Law out of *Normandy* with him, and that it had been uſed in the *Seigneurie* of *Bretvil* whereof he was Lord; for he eſta bliſhed the ſame Laws and Customs in *Hereford*, that were uſed there.

P. 9.

Fol. 372. n. 40.
Anno Dom.
1232. 16 Hen. 3

The King de-
mands Aid to
pay his Debts.

King *Henry* Summons all the *Baginates* of England, ad Colloquium, becauſe he was greatly in Debt, by reaſon of his Wars, he demands *Auxilium* ab omnibus generaliter; The Story he hath out of *Mat. Paris*, who hath it thus. *Convenerant eo tempore, Nonas Martii ad Colloquium apud Weſtmonaſterium ad vocationem Regis Baginates Anglia, tam Laici, quam Prelati, quibus Rex propoſuit, quod magnis eſſet debitis implicatus, cauſa bellicæ expeditionis, quam nuper egerit in partibus Tranſmarinis, unde neceſſitate compulſus, ab omnibus generaliter Auxilium poſtulavit*. There met at that time on the *Nones*, or ſeventh of *March*, at a Colloquium, Conference or Parliament at *Weſtminſter*, according to the Kings Summons; the Great Men of England, as well Lay-men as Prelates, to whom the King propounded, that being involved in great Debts, by reaſon of his late *Transmarine Expedition*, he was neceſſitated to require generally of them all an Aid.

And

And then follows, as 'tis in this Author, *Quo audito Comes Cestrie Ranulphus pro Magnatibus Regni loquens, respondet, quod Comites, Barones, ac Milites qui de eo tenebant in Capite, cum ipso erant ibi corporaliter presentes; Et Pecuniam suam ita inaniter Effuderunt, quod inde Pauperes omnes recesserunt, unde Regi de Jure Auxilium non debebant, & sic petita Licentia Laici omnes recesserunt.* (Our Author hath left out the word **Laici** in his Book, because it manifestly destroys his Whimsy.)

P. 9, 10.

The Barons deny it.

Paris, *ibid.* lin. 50.

The words are thus to be Englished, which being heard (*viz.* the Kings demanding an Aid) *Ranulph* Earl of *Chester*, speaking for the Great Men of the Kingdom, answered, that the Earls, Barons, Knights, or Military-men that held of him *in Capite*, were with him corporally present in that Expedition, and had spent so much Money to no purpose, that they returned poor, and therefore of right they ought no Aid to the King; and so having asked leave, all the Lay-men departed. *Pralati vero Regi Respondentes, dixerunt, as Paris goes on, &c.*

This was a * Military Aid, that is **Scutage**, which was here demanded, as appears by the Earl of *Chester*'s Answer; for there is nothing more notorious than that, whenever the Military Tenents of the King, or any other Lord, were personally present in any Expedition, the Law was and the usage accordingly, that Scutage-Service was neither of right due from them, nor paid by them, but it was always levyed of such as were absent, or performed not their full Service; but Scutage was after granted as a Tax by common consent.

* *Concessa sunt Regi Auxilia Militaria de quolibet Scuto 2 Marce & Dimid.*
5 *Johannis.*
1204. *Par.*
fol. 209. n. 30.

After this denial of Scutage, asking leave, *Laici omnes recesserunt*, all the Lay-men departed. All the Lay-men certainly were *Tenents in Capite*; else, why did they depart upon affirming there was no Aid due to the King, because they had been all personally present with him in that Expedition, for which he demanded Aid.

Here was the Earl of *Chester* (meaning at this Colloque) this being a Summons to a General Assembly; but when the King asked Money for his Expences in the Wars, he tells him, in the name of all the **Laity**, that those which held of him in *Capite* (which is as much as to say, he was none of them) served them in their own Persons, and at their own Charge, therefore they begged leave to be gone, if the King had no other business with them.

P. 10.

This he confesseth was a General Council, and all the Lay-men were only *Tenents in Capite*, as appears above; and he here confesseth likewise, that they served in their own Persons, and at their own Charges: Let the Reader therefore judge, whether *Tenents in Capite*, were not the only constituent Members of Great Councils in these times.

It may be noted once for all, that if our Author finds any thing done in any Council, which he conceives doth favour his Fancy, that to be sure is a General Council; but if it be against him, then 'tis but *Curia Ordinaria*, or *de More*, and this he frequently avers, without sound Reason or Authority.

P. 10.

The Earl of *Chester* tells the King, in the name of all the **Laity**, that those which held of him in *Capite* (which is as much as to say, he was none of them) as is above recited; a very ridiculous Inference, and his Note on the Margin of this Page is as idle, where he says, without Authority the Earl of *Chester* was not to attend the King in his Wars,

nor

This *Ranulph* was Earl of *Chester* above 50 years, from 27 *Hen. 2.* 1181 to the latter end of the 16. *Hen. 3.* 1232. *Dugd. Bar. Tom. 1. fol. 41. Col. 2. fol. 45. Col. 2. Paris, fol. 367. n. 10. & f. 369. n. 30.*

nor to pay *Escuage* in lieu of Military Service, because all his *Tenure* was to keep to the Defence of the *Marches* (of *Wales* he means.) For ought our Author knows, what he says of the Earl of *Chester* might be true. But this same very *Ranulph* was with King *John* in an Expedition into *Poitou*, in the 15th of his Reign. *Clau. 15. Johannis m. 1. Dors.* And in the 16th of the same King he paid *Scutage* for not being with him in an Expedition thither. *Cl. 16 Johannis m. 15. Dors.* In the Sixth of *Richard* the First, he was in *Normandy* with King *Richard's* Army. *Rot. Pip. 6. R. 1. Buck. & Bedf.* upon these *Pipe-Rolls* all the *Tenents in Capite* are entred, who performed their Service, who not, with their *Scutages*. Nay more than all this, he was with the King in the Expedition we are writing of into *Gascoign*, *Poitou*, and *Britan* in *France*; in which he told the King, the *Tenents in Capite* had consumed their Money, &c. and stayed in those Wars near a year after the King returned into *England*, when he and the Earl of *Britan* made Truce with the King of *France* for three years, on behalf of the King of *England*. These are certain marks the Earls of *Chester* were Feudal *Tenents*, and not Soverain free Princes, as this Gentleman would have them to be; and if he will require more of me, I can let him have them.

And he may further take notice, that though the Earl of *Chester*, and *Tenents in Capite* were averse at this time to Grant the King *Scutage*, to pay his Debt contracted in this Expedition; yet about six months afterward, upon the 14th of *September* following, they granted him the 40th part of all *Moveables* for the payment of it.

Ibid. fol. 377. n. 50 A.D. 232. 16 Johannis. A Grant of a 40th part of *Moveables*.

Convenerunt tempestate eadem apud Lambecian ad Colloquium in exaltatione Sancte Crucis, coram Rege Episcopi, & alii Ecclesiarum Prelati cum Proceribus Regni, ubi concessa est Regi pro debitis quibus Comiti Britannia tenebatur astrictus, quadragessima pars rerum mobilium, ab Episcopis, Abbatibus, Prioribus, Clericis & Laicis.

There can be no doubt, but *Proceres Regni* here, were the same that *Magnates Anglie* were in the other *Colloquium*, on the seventh of *March* next preceding this.

P. 15.

What he further urges for the Earls of *Chester's* Independencies of the Crown, they are Priviledges which are to be found almost in every Royalty and Liberty in *England*, and were originally Indulgences and Grants from the Kings of *England*, by which (no man that hath any Sense) can believe they ever intended to Ruine themselves, or the Rights of the Crown; but rather supposed a Return of Duty and Obedience; those Favours being founded upon a Reciprocal of Gratitude.

But there is a further irrefragable Argument in the Negative, viz. That this *Commune Concilium* (meaning that constituted by King *John's* Charter) was not the Grant Council of the Nation. And that is the Judgment of a whole Parliament in the 40th of *Edward* the Third. It appears by the History, that King *John* had resigned his Crown in such a Council as this here; it was *Communi Consilio Baronum nostrorum*; and yet the Prelates, Dukes, Counts, Barons and Commons, upon full deliberation in Parliament, Resolve, that the Resignation was void,

void, being contrary to the Kings Oath, in that 'twas Sans leur assent, without their assent, and the King could not bring the Realm in Subjection, Sans assent de eux.

No man I think will say, a whole Parliament is infallible ; there have been many Acts and Clauses of Acts of Parliament, nay, the whole Proceedings of some whole Parliaments revoked by other whole Parliaments, which ought not to have been done, if a whole Parliament had, or could have been infallible ; and in this very Case, the whole Parliament was doubtful of Matter of Fact, (so little knowing they were of what had been done before their times.) For in this very Roll it is said, n. 8. *per Pleusieurs Evidences apiert que si ce fust fait, ce fust fait sanz leur assent*, that is, by many Evidences it appears, that if it was done (that is, if King John had resigned the Crown to the Pope) it was done without their Assent, that is, without the Assent of a General Council, *Colloquium* or Parliament in those times when it was done ; or which is all one, without the consent of the Nation.

Our Author says, *It appears by the History, that King John in such a Council as was constituted by his Magna Charta, Resigned his Crown*, which cannot be true ; for he resigned his Crown the 15th of May, in the 14th of his Reign, and he Granted that Great Charter of Liberties three years after, on the 15th of June, in the 17th of his Reign, and therefore he could not Resign it in such a Council as was constituted three years after his Resignation : and the History it self informs us otherwise.

For the King of France had raised the Force of his Kingdom to seize the Kingdom of England, it being given to him by the Pope, when he had Deposed King John, who Summons all the Force of his Kingdom to appear at Dover, in the close of Easter, to oppose the King of France, and while with a vast Army he expected his Landing, Pandulph, the Popes Legate, came over to King John, and recounting the numerous Army, Power, and Force of the King of France, and telling him that he boasted he had Assurance by the Charters of almost all the Great Men of England, of their Fidelity and Subjection to him ; he so affrighted and confounded King John, that fearing when he came to Fight he should be left alone, or delivered to his Enemies to be destroyed by them ; he acquiesced in the Perswasions of Pandulph, which was to gratifie the prescribed Bishops, Canterbury, London, Ely, Hereford, Bath, and Lincoln, the Prior and Monks of Canterbury, Rob. Fitz-Walter, Eustace de Vesci, and all the Clergy and Laity that were concerned in the Election of, and sided with Stephan Langton Archbishop of Canterbury, in all their Demands, and Resign his Crown to the Pope.

Indeed it is said in the Chart of Resignation, that it was done *Consilio Baronum nostrorum*, by the Counsel of his Barons. And it was executed in the House of the Templars near Dover, *Coram H. Dublinensi Archiepiscopo, Johanne Norwicensi Episcopo, Galfrido Filio Petri, W. Comite Sarisbertæ, W. Comite Pembroc. R. Comite Bononia, W. Comite Warennæ, S. Comite Winton, W. Comite Arundel, W. Comite de Ferrariis, W. Briwer, Petro Filio Herberti, Warnio Filio Geroldi, viz.*

See the Judgment of the Parliament in this Case, in this Answer, fol. 70. and what it was.

P. 15.
Paris, fol. 237.
l. 20.

Ibid. fol. 262.
l. 5.

Ibid. fol. 233.
n. 20, 30.
Why K. John Resigned his Crown.
Ibid. & f. 234.
n. 10, 20.

Ibid. lin. 28.
Ibid. lin. 37.

Ibid. lin. 45.
Ibid. lin. 55.
Ibid. fol. 235.
lin. 5.
Ibid. lin. 10.

Ibid. n. 20.
Ibid. fol. 236.
n. 30, 40, &c.

Ibid. lin. 52.
Ibid. fol. 237.
l. 17. Where, and before whom K. John Resigned his Crown.

in

in the Prefence of two Bishops, the Justiciary, seven Earls, and three Barons, without subjoyning, *Et aliis Episcopis, Comitibus & Baronibus*; or, *Et Communitate*; or *Tota Communitate*; or any other Note that there were more present.

Ibid. 234. l. 1, 2.

This being therefore a Military Summons, for the gathering together of an Army, and the appearance of all Men with Horse and Arms, and other Foot-Arms, and Weapons at *Dover*, the place appointed for the Rendezvous; and the Assembly being an Army, and the five prescribed Bishops being in *France*, and the Barons that sided with them, fled beyond Sea, or not daring to appear. And further, the Resignation having been executed before so small a number of Barons, without probability of more being present; this could not be such a Council as was Constituted by King *John's* Charter; that is, it was not a Parliamentary Council, or Colloquium, or General Representative of the Nation, and therefore the Parliament in the Fortieth of *Edward* the Third, might well say, the Resignation was made without their Assent; and thus falls his irrefragable Negative Argument, and comes to nothing.

P. 20.

If no Instance can be shewn from Record or History of Auxilia or Aids, raised by the Kings of England, without more general consent, except such as were raised of his immediate Tenents, &c.

General Taxes
or Aids imposed
upon the
Tenents in Capite.

There have been several Instances given already in these Animadversions, that *Auxilia* Aids have been given with no more general Consent, than that mentioned in King *John's* Charter; as for example, a thirteenth, fifteenth, thirtieth, fortieth part of all Moveables, and a Poll or Head-Tax imposed upon all Subjects in general that were able to pay; in which Instances, the Difference between Scutage or Military Aids raised upon Knights Fees only, and other Aids, Taxes, or Tallages, may easily be discerned.

P. 25.
De Term.
Hillar. 39 Hen.
3. Penes Regem
Regis in
Scaccario.

He says, the City of London being charged with a Tallage, the Common Council dispute, Whether it were Tallagium or Auxilium, which is there meant of a Voluntary Aid, not due upon the account of any of their Houses, being of the King's Demeasn; though indeed 'tis then shewn that they had several times before been Talliated.

P. 26.

This explains that part of the Charter, Simili modo fiat de Auxiliis de Civitate London; that is, as in all such Cases besides those excepted, Scutage or Tallage should not be raised but by a Common Council of the Kingdom; that is, of all the Persons concerned to pay. So for the City of London, unless the Aid were ordered in Common Council, wherein they, and all other Tenents in Chief were assembled, none should be laid upon any Citizens, but by the consent of their own Common Council; and if the Ordinance were only in general Terms, that all the King's Demeasns should be Talliated, the Proportions payable, there should be agreed by the Common Council of the City, according to that Record, 11 Hen. III. Assedimus Auxilium Efficax in Civitate nostra London, ita quod singulos tam Majores, quam Minores, de voluntate omnium Baronum nostrorum Civitatis ejusdem per se Talliavimus, & ideo providimus simul Auxilium per omnes Civitates nostras, Burgos & Dominica nostra assidere.

This

This per se Talliadinus was a Talliating per Capita ; for when the Common Council refused to give such a Sum in Gross as the King demanded, then the King was put to have it Collected of every Head, that is, according to the Faculty of every Soccage Tenent of his Demeasn, as appears by the Record, 39 Hen. III. meaning that cited before in his Margent.

P. 26, 27.

A What our Writer means by these three senseless impertinent Paragraphs, I do not well understand, unless it be that Cities and Burghs were not Taxed, or Assessed toward any Payments, but by their own Common Councils ; or that they, as part of the Common Council of the Land, Taxed themselves. For what he says, that after a Tax or Aid was imposed upon Cities and Burghs, the Inhabitants met to proportion it, so as it might be paid with as much equality as could be ; if they would, they always did it, and this
B sense which he puts upon the Record, 11 Hen. III. is nothing to his purpose.

I could not find this Record.

But he having grounded these three Paragraphs, and somewhat more that follows, upon the Record which he cites in his Margin, p. 26. not mentioning any thing of the Record it self, I shall here publish the whole, and give him leave to make the best of it.

C

D

E X R E X

F

Term Hillar.
39 Hen. 3.
Penes Remem.
Regis in Scac.
Pro Rege tan-
gen. Cives
Lond.

Hen. de Ba-
thon. &c. were
Barons of the
Exchequer,
and Justices
Itinerant.
St. Martins Le
Grand in
London.

Penes Camer.
Fol. 41. 2.
How Taxes
were Levied
in Cities and
Burghs in Hen.
II. his Reign.

REX Mand. Baron. quod Anno Regni sui xxxix. post redit. suum de Vascon. post festum Sancti Hillarii apud Merton provisum fuit per Consilium Regis quod Talliare Dominica sua per Angliam pro gravibus expensis factis dum fuit in partibus transmarinis. Et cum Cives London, vocati essent coram Rege & Consilio suo apud Merton ad Talliandum prædictam Civitatem, venit Radulphus Hardell tunc Major Civitatis London cum pluribus aliis de eadem Civitate. Et Rex petebat ab eis tria mill. Merc. nomine Tall. & illi habito Consilio cum Concivibus suis venerunt ibidem & optulerunt Regi duo mill. Merc. nomine Auxilii, & dixerunt præcise plus non poterint dare, nec darent. Et tunc Rex de Consilio suo misit Phil. Lovell Thes. suum, Henric. de Bathon. Petrum de Kivall. Roger. de Turkelby apud Sanctum Martinum ad recipiend. finem trium mill. Merc. pro Tall. si intrare vellent sicut eis prius dictum fuit, & si nollent tunc assident. Tall. illud in Civitate per Capita. Et omnes prædicti ibidem venerunt. Et cum prædicti Cives nolissent intrare finem. prædict. trium mill. Merc. prædicti Thes. & alii voluerunt assidere illud Tall. per Capita & quod quilibet juraret catalla alterius. Et cum ipsi nolissent facere Sacrament. nec etiam dicere in fide qua Regi tenebantur de Catall. singulorum, dicti Thes. & alii inde recesserunt infecto Negotio illo. Postea venerunt prædicti Cives coram Rege apud Westm. die Dominica proxima post Purif. Beatæ Mariæ Virgin. anno prædicto & coram Consilio suo, (viz.) R. Com. Cornub. fratre Regis, R. de Clare Com. Glouc. & Hertf. A Wynton Episcopo W. Wigorn. Episcopo & aliis de Consilio suo. Et cum contentio esset utrum hoc dici debet Tall. vel Auxilium, Rex **Scrutari** fecit rotulos suos utrum ipsi aliquid **Dederunt** Regi vel antecessoribus suis nomine Tall. Et **Scrutatis Rotulis** compertum est tam in **rotul.** de **Scac.** quam de **Cancellar.** quod tempore Domini Johannis Patris Domini Regis anno ejusdem Johannis sexto decimo **Talliati** fuerunt prædict. Cives London ad duo mill. Marc. ad relaxationem interdicti, & anno Regni Regis septimo Talliati fuer. ad mill. Libr. Et anno xxvi. dederunt mill. Libr. pro Tall. ea vice. Et anno xxix. Tall. fuerunt ad duo mill. Merc. Et anno xxxiii. ad mill. Libr. Et anno xxxvii. dederunt mill. Merc. & xx. Merc. auri pro Tall. Postea in **Craftin.** (scilicet) die Lune proxima post festum Pur. beat. Mariæ Virgin. venerunt prædict. Randolphus Hardell Major & Cives & recognover. se esse Talliabiles & dederunt Regi tria mill. Merc. pro Tall. Test. apud Westm. xiv. die Februarii anno, &c. Bre. est in for. Mar.

Examinat.

How it appears by this Record that the Common-Council of London Taxed the City, or that the City was not Taxed without their own consent, let the Reader judge; it seems to be plain by the Record, that the King by the advice of his Privy-Council Taxed it.

If we look back into the Reign of Henry the Second, we shall see how Cities and Burghs were Taxed in his Reign. *Plurimum Interest*, says the Black Book in the Exchequer, (Dedicated to that King) *si Donum vel Auxilium Civitatis per singula Capita Commorantium in eâ à Justiciariis Constituatur. Vel si Cives summam aliquam, quæ prin-*
cipe

A

B

C

D

E

F

cipe digna videatur Justiciariis offerant, & ab eis suscipiatur. Dispar enim in his Duobus, Modus Coercionis est.

A The Usage was then, that either the Kings Justices Taxed the Cities and Burghs, or the Citizens and Burgessees offered a Sum to the Justices, which oft times was accepted: In both these Cases there was a different way of forcing the Payment of it; and this Gift or Aid of the Citizens, is in this Book otherwise called *Convencio*, or *Sponte Oblatum*, a Bargain, or Composition with the Justices for the Tax, or a Benevolence in stead of it.

B This makes the meaning of the Record more plain, and shews the Reason why the Mayor and Citizens of *London* refused at first to pay 3000 Marks, and freely offered 2000; and why there arose a Contention whether what was demanded, was to be called an Imposition or Voluntary Gift. And likewise shews the reason why *London*, and other Cities and Burghs, according to the Law of King *John's* Charter, were to be Assessed and Taxed by the Common Council of the Kingdom, as well as the Kingdom it self; for doubtless the Kingdom had been Taxed by our antient Kings and their Privy-Council only, before the granting of that Law in King *John's* Charter; otherwise what can the meaning of those words be, *Nullum Scutagium vel Auxilium ponam in Regno nostro, nisi per Commune Concilium Regni nostri*, (unless in the three excepted Cases) &c. If they were not intended to restrain the King from Levying of publick Taxes, without publick Consent?

D The reason of this Article in King *John's* Charter, is Argument sufficient to prove, that the Common-Council mentioned in it, was the Great and Common-Council of the Kingdom to all intents and purposes, if there had been no other.

E For *Henry* the Third several times after this Charter was granted, and *Edward* the First, Taxed their Demeasns through *England*, though not the whole Kingdom, by Advice and Consent of their Privy-Councils only, until the Statute *De Tallagio non Concedendo* was made 34 *Edm. I.* And both *Richard* the First and King *John* had Taxed the whole Kingdom without common assent, before the Grant of *Magna Charta*.

F *Richard* the First, Anno 1198. in the Ninth year of his Reign, *Accepit de unâquaque Carucata Terræ totius Angliæ V. Solidos de Auxilio ad Quos Colligendos Misit Idem Rex per singulos Comitatus Angl. unum Clericum, & etiam Militem, qui cum Vicecom. Comitatus ad quem Mittebantur, & Legalibus Militibus ad hoc electis præstito Juramento quod fideliter exequerentur Negotium Regis, fecerunt venire coram se Senescallos Baron. istius Comitatus, & de qualibet Villa Dominum vel Ballivum Villæ, & præpositum cum quatuor legal. hominibus Villæ, sive (a) Liberis, sive (b) Rusticis, who were to swear how many plough Lands there were in every Town. Et super singula Carucarum * Wannagia ponebant, ex Precepto Regis, primo duos*

Rot. 11. Hen. 3. M. 19. The Record above-cited concerning *London*, Co. 2. Infit. Fol. 531.

Hoved. f. 442. b. n. 50. f. 443. a. n. 10. 20.

(a) Tenents in Military Service, or Gentlemen.

(b) Soccagers, Possessors of Freeholders in Soccage only.

* *Carucarum Wannagia*; that is, Plough-Tilths; *Wannagia* being put for *Gainagia*, Tillage or Husbandry.

Solidos, postea 3 Solidos, &c. *Ad poenam vero Juratorum qui aliquid contra Juramentum eorum Celaverint in hoc Negotio, Statutum erat, quod quicumque Rusticus Convictus fuerit de perjurio, daret Domino meliorem Bovem de Carucâ suâ, atque insuper responderet de proprio ad opus Domini Regis tantum pecuniæ quantum fuisset declaraturæ per suum perjurium fuisse celatum. Si vero Liber homo Convictus fuisset, esset in Misericordia Regis, & insuper refunderet sicut Rusticus.*

* *Libera feoda Ecclesiar. &c.* that is, the Knights Fees, or Maners annexed to Parochial Churches.

* *Libera Feoda Ecclesiarum Parochialium, de hoc Tallagio Excipiuntur.*

A

The full Form of setting and Levying this Tax is set forth in this Relation of *Hoveden*, who lived at the time, and was a Man of Employment under King *Richard*; and 'tis observable, he useth both the word *Auxilium* and *Tallagium* for this very same Tax. But *Auxilium* was the most general word used for all sorts of Taxes and Impositions, before the Statute *De Tallagio non Concedendo*, as may be observed from the Records before cited.

B

Paris, fol. 109. n. 20. A. D. 120.

King *John* took a seventh part of all Moveables without common assent; and another time a thirteenth, the Great Men and Clergy grumbling at it.

Rot. Cl. 33. Hen. 3. m. 14.

King *Henry* the Third Taxed his Demeasns in the 33th of his Reign. *Quia Rex Talliari facit Dominica sua, Mandatum est Vicecom. Bucks quod habere faciat Philippo Basset rationabile Tallagium de hominibus suis de eo Tenentibus in Manerio de Wycumb, quod aliquando fuit Dominicum predecessorum Regis Regum Angliæ, Teste Rege apud Westm. 28 die Decemb.*

C

Cl. 52 H. 3. M. 11. Dorf.

In the 52^d of his Reign, he Taxed his Lands beyond *Trent*, by his Escheator *John de Rygate* and *Walter de Stokes*; and in several other years.

D

Riley's Placita, Parl. f. 246. Our Antient Kings did de Fine Tax their Demeasns.

And this Right it self was acknowledged by the Barons in the 33th of *Edward* the First, as appears by their Petition to him in Parliament. *Ad Petitionem Archiepiscoporum, Episcoporum, Prelatorum, Comitum, Baronum, & aliorum proborum hominum, de Terra, petentium quod Rex concedere velit, quod possint Talliare antiqua Dominica unde sunt in Tenancia, desicut Rex Dominica sua Talliabit, ita Responsum est. Fiat ut Petitur, &c.*

E

THE following Records should have been Printed the last thing of these Animadversions, and so placed last; but by mistake of the Printer, were very inconveniently printed and placed here, which interrupts the Matter, of the Animadversions. Therefore the Reader is desired to pass on to Fol. 188. and begin at these words in the letter A. It is agreed on all Hands, &c. which carries on the Thred and sense of the Animadversions, and the Records may be used as Referred to.

F

Claus. 17 Joh. M. 21 Dorf.

HÆc est Conventio inter Dominum Johannem Regem Angliæ ex una parte, & Robertum filium Walteri Mareſchallum Exercitus Dei, & Sanctæ Ecclesiæ in Angliā, & Ricardum Com. de Clare, Galfridum Com. Essex & Glouc. Rogerum Bigod Com. Norff. & Suffol. h. saherum Com. Wynton, Robertum Com. Oxon. H. Com. Heref. & Barones Subscriptos scilicet. W. Marisc. jun. rem, Eustach. de Vesey, Will. de Mobrai Johannem fil. Roberti Rogerum de Monte Began. Will. de Lanvalay & alios Comites & Barones & liberos homines totius Regni ex altera parte. Videlicet, quod ipsi Com. & Barones, & alii præscripti tenebunt Civitatem London de Ballivo Domini Regis, Salvis interim Domino Regi firmis, redditibus, & claris debitis suis usque ad assumptionem Beatæ Mariæ, Anno, &c. decimo septimo. Et Dominus Cantuariensis Archiepiscopus tenebit similiter de Ballivo Domini Regis Turrim London usque ad prædictum terminum, salvis Civitati London libertatibus suis, & liberis consuetudinibus suis, & salvo cuilibet jure suo, in Custodia Turris London. Et ita quod interim non ponat Dominus Rex munitionem vel vires alias in Civitate prædicta, vel in Turri London. Fiant etiam infra prædictum terminum Sacramenta per totam Angliam viginti quinque Baronibus sicut continetur in Charta de libertatibus & securitate Regno concessis, vel Attornatis viginti quinque Baron. sicut continetur in litteris de duodecim militibus eligendis, ad delend. malas consuetudines de Forestis & aliis. Et præterea infra eundem terminum omnia quæ Comites & Barones & alii liberi homines petunt à Domino Rege quæ ipse dixerit esse reddenda vel quæ per viginti quinque Barones aut per majorem partem eorum judicata fuerint esse reddenda reddantur secundum formam prædictæ Chartæ. Et si hæc facta fuerint vel per Dominum Regem non steterit quo minus ista facta fuerint infra prædictum terminum Civitas & Turris London ad eundem terminum statim reddantur Domino Regi, Salvis prædictæ Civitati libertatibus & liberis consuetudinibus suis, sicut præscriptum est. Et si hæc facta non fuerint, & per Dominum Regem steterit, quod ista non fiant, infra prædictum terminum, Barones tenebunt Civitatem prædictam, & Dominus Archiepiscopus Turrim London, donec prædicta compleantur. Et interim omnes ex utraque parte recuperabunt terras Castra & villas, quas habuerunt in initio Gwerræ ortæ, inter Dominum Regem, & Barones.

N. 1. Animad.
P. 9.

Rot. Pat. 6. Jo. M. 2 Dorso.

REX, &c. Vicecom. Rotel. &c. Scias, quod provisum est communi assensu Archiepiscoporum, Episcoporum, Comitum, Baronum, & omnium fidelium nostrorum Angl. quod Novem Milites per totam Angliam invenient Decimum Militem bene paratum equis & armis ad defensionem Regni nostri, & quod illi Novem Milites invenient decimo Militi qualibet die ii s. ad liberationem suam, & ideo tibi precipimus quod sicut teipsum & omnia tua diligis, provideas quod Decimi Milites de Balliva tua sint apud Lond. a die Pasch. in tres septimanas bene parati equis & armis cum liberationibus suis sicut prædictum est, parati ire in servitium nostrum quo præceperimus & existere in servitio

N. 2.

Vide M. Paris,
fol. 99. n. 50.
duo Milites
tertium invenient.

vitio nostro ad defensionem Regni nostri quantum opus fuerit. Provisum est etiam quod si alienigenæ in terram nostram venerint omnes unanimiter eis occurrunt cum forcia & armis sine aliqua occasione & dilatione auditis rumoribus de eorum adventu, & si quis Miles vel Serbiens vel alius Terram Tenens inventus fuerit qui se inde retraxerit dummodo tanta non fuerit gravatus infirmitate quod illuc venire non possit, ipse & heredes sui imperpetuum exheredebantur & feodum suum remanebit Domino fundi ad faciend. inde voluntatem suam. Ita quod exheredatus vel heredes sui nunquam inde aliquam habeat recuperationem. Si quis vero Milites Serbientes vel alii qui Terram non habent inventi fuerint qui se similiter retraxerint, ipsi & heredes sui serbi fient imperpetuum reddendo singulis annis .iiii d. de capitibus suis nec pro paupertate omittant ad prædictum negotium venire cum illud audierint quia ex quo ad exercitum venerint providebitur unde sufficienter in servitio nostro poterunt sustentari. Si vero Vic. vel Ballivos vel Præpositos illos qui se retraxerunt nob. per bre. vel per scriptum, vel viva voce non ostenderint dict. Vic. vel Ball. vel Præposit. remanebit in misericordia nostra de Vita & Membz. Et ideo tibi præcipimus quod sub festinatione hæc omnia proclamari facias in foris per totam Ballivam tuam & in Mercatis & Nundinis & alibi & ita te de negotio illo faciendo intromittas quod ad te pro defectu tui capere non debeamus, & tu ipse sis apud London ad præfatum terminum vel aliquem discretum ex parte tua mittas & facias tunc nob. scire nomina decimorum Militum, Et habeas ibi hoc bre. T. meipso apud Winton tertio die Apr.

Any Man that reads the Record, cannot but believe the Nine Knights, and the Tenth also which they were to find, were all Tenents in Military Service: for besides that, they were such as had their Horse and Arms ready, the Tenth Knight had good Pay or Wages allowed him; two Shillings a day, in the Sixth of King John Anno Dom. 1205. 465 years since, was as much then, as thirty Shillings a day now; too great an Allowance for an ordinary Freeholder. In small Expeditions, where a small number of Horse were sufficient, this course was taken to save Charges.

Who in case of Foreign Invasion, were to appear in Arms for the Defence of the Kingdom, under pain of Forfeiture of their Lands to their Lord of whom they held, without hopes of recovery by them or their Heirs.

The Constituent parts of this Great Council mentioned in this Record are observable, which were the Archbishops, Bishops, Earls, Barons, & omnes fideles nostri Angliæ, which were the Tenents in Capite, the omnes alii qui de nobis Tenent in Capite, according to the great Charter granted afterwards in the Seventeenth of his Reign.

See more in
the Answer,
p. 182. 183.

EBORASCIRA.

Carta Domini Rogeri Eboracensis Archiepiscopi
de Militibus suis fefatis.

A Mantissimo Domino suo Henrico Dei gratia Regi Anglia & Duci
Normannia, & Aquitannia, & Comiti Andegavia, suus Ro-
gerus eadem gratia Eboraci Archiepiscopo Apostolica sedis Legatus, sa-
lutem. Precepit Dignitas vestra omnibus fidelibus vestris Clericis &
Laicis qui de vobis tenent in Capite in Eborascira, ut mandent vobis
per literas suas extra sigillum pendentes, quot Milites fefatos quisque
habet de veteri fefamento de tempore Regis Henrici avi vestri, de die
& anno quo ipse fuit vivus & mortuus, & quot habeat de novo fefa-
mento fefatos, post mortem bone memorie avi vestri ejusdem. Et quot feoda
Militum sunt super **Domini** uniuscujusque, & omnium illorum no-
mina fefatorum, tam de novo fefamento, quam de veteri, sint in illo
breviscripta, quia vultis quod si aliqui ibi sunt qui nondum fecerunt vo-
bis **Ligantiam**, & quorum nomina non sunt scripta in Rotulo vestro,
qui infra Dominicam primam quadragesime **Ligantiam** vobis faciant,
quorum ego unus jussioni vestrae per omnia subjectus cum omni diligentia
investigavi in **Tenemento** meo, prout brevitatis temporis passa est, &
presenti scripto vobis Domino meo significo. **Imprimis**, ergo sciatis
Domine, quod super **Domini** Archiepiscopatus Eboraci nullum
feodum est Militum cum tot habemus fefatos Milites, per quos acquie-
tavimus omne servitium quod vobis debemus, sicut & predecessores nostri
fecerunt, & plures etiam habemus, quam vobis debeamus sicut ex pre-
senti subscripto, cognoscere poteritis, Antecessores enim nostri, non
pro necessitate servitii quod debent, set quia cognatis, & servien-
tibus suis providere volebant, plures quam debebant Regi feodave-
runt.

E lib. rubro
in Scaccario.

Nomina

Nomina autem Fefatorum de Tempore Regis Henrici hæc sunt.

Willielmus Comes Albemarle Tenet Feodum trium Militum.

Henricus de Laci duos Milites.

Rogerus de Molbrai quartam partem Militis.

Herebertus filius Hereberti tres Milites.

Gilebertus filius Nigelli duos Milites.

Paganus de Landa tres Milites.

Malgerus filius Hugonis unum Militem.

Richardus filius Hugonis unum Militem.

Willielmus de Bella-aqua unum Militem.

Robertus Morin duos Milites.

Gilebertus filius Herberti duos Milites.

Hugo de Muscham duos Milites.

Walter de Danecurt duos Milites.

Robertus Mansel unum Militem.

Robertus filius Wiard dimidium Militis.

Petrus de Periton dimidium Militis.

Hugo de Verli quatuor Milites.

Willielmus Chokerel unum Militem.

Thomas de Everinham duos Milites & dimidium.

Simon Wahart unum Militem.

Radulphus de Novewica dimidium Militis.

Robertus Poher dimidium Militis.

Walter de Denton dimidiam partem Militis.

Robertus filius Hugonis quartam partem Militis.

Willielmus de Lubbehou dimidium Militis.

Alexander de Nuvebi quatuor partes dimidii Militis.

Herebertus de Merkinton quartam partem Militis.

Petrus de Belingee unum Militem.

Oliverus Angevinus unum Militem.

Willielmus de Panton unum Militem.

Thomas filius Auberti quartam partem Militis.

Aliza de Molecroft quartam partem Militis.

Thomas filius Hervei unum Militem.

Benedictus de Sculetot octavam partem Militis.

Bernardus de Cotingeham quartam partem Militis.

Leuredus decimam tertiam partem Militis.

Johannes de Melfa octavam partem Militis.

Johannes quartam partem Militis.

Serlo de Pouel quartam partem Militis.

Post mortem vero Regis Henrici Fefati sunt.

Petrus Pincerna de feodo dimidii Militis.

Petrus Camerarius de vicesima parte Militis.

Galfridus de Burton de Duodecima parte Militis.

Gervasius de Bretton de tertia parte Militis.

*Et cum Domine ex hiis sunt quidam a quibus plus servitii exhigo quam ipsi modo faciant, alii vero detinent; quadam quæ ad **Wentani** Archiepiscopi & **Dominium**, & non ad ipsos pertinere dicuntur, Rogerus supplicat ne in scripto isto mihi vel successoribus meis nocere possit, quo minus jus Ecclesie recuperare possimus, vel retinere valeat. Dominus meus, & præter prædictos Milites.*

Turstanus de Lethampton feodum dimidii Militis.

Gilebertus de Mineres tertiam partem Militis.

Werri de Marinis tertiam partem Militis.

Willielmus de Scuras dimidiam partem Militis.

Willielmus de Palefrei unum Militem.

Willielmus de Bella-aqua & Richardus de Crokton quartam partem Militis.

HERTFORDSCIRA.

Carta Roberti de Valoniis, de Baronia Roberti de Valoniis.

ISTI sunt Milites qui fuerunt antiquitus fefati tempore
Henrici Regis Avi Domini nostri Regis Scilicet.

Richardus de Caln, sex Milites & dimidium.

Agnes de Montepincheon, quinque Milites.

Radulphus de Daling, duos Milites.

Philippus de Snaring, tertiam partem unius Militis.

Galfridus de Snaring, dimidium Militem.

Willielmus de Bosco, octavam partem unius Militis.

Adam filius Aluredi, dimidium Militis.

Henricus frater Abbatis, de Sancto Edmundo dimidium Militem.

Matthæus de Francaterra, duos Milites.

Robertus filius Jocelini, unum Militem.

Humfridus de Beringeham, unum Militem.

Robertus de Haia, unum Militem.

Radulphus de Latton, unum Militem, & quartam partem unius Militis.

Ambrosius unum Militem, & octavam partem unius Militis.

Wimerus le Fae, dimidium Militis.

Godefridus de Tiwing, dimidium Militis.

Brien de Tiweng, dimidium Militem.

Willielmus de Mandavill, unum Militem.

Galfridus de Haia, unum Militem.

Willielmus de Boxa, unum Militem.

Robertus filius Radulphi, unum Militem.

Radulphus de Ouvill, dimidium Militis.

Robertus de Infula dimidium Militis.

Monachi Theofordiæ, dimidium Militem.

Osbertus de Thaiden, dimidium Militem.

Summa Militum antiquitus Fefatorum tempore Henrici Regis, avi Domini Regis, triginta Milites & tertia pars unius Militis. Et de istis prædictis Galfridus de Valoniis, tenet unum Militem & octavam partem Militis.

De Dominicis terris de eadem Baronia, isti subscripti feofati sunt, post tempus Henrici Regis avi Domini Regis per Petrum de Valoniis fratrem Roberti Primogenitum, scilicet.

Adam filius Aluredi, unum Militem.

Willielmus de Bosco, unum Militem.

Walterus de Nevil, unum Militem.

Galfridus de Valoniis, dimidium Militis.

Gundrea, quæ fuit uxor Petri de Valoniis, unum Militem, in vita sua.

Summa novorum Fefatorum, quatuor Milites & dimidium.

Et de istis novis Galfridus de Valoniis tenet duos Milites & dimidium.

Carta Albani de Hairun.

Domino suo excellentissimo Henrico Regi Angliæ Albanus de Hairun, *vestra excellentia notifico quod ego in Hertfordscira feodum unius Militis de veteri fefamento, de vobis principaliter teneo, & quod de nobo fefamento nichil habeo, nec Militem Feofatum aliquem habeo. Valete.*

He performed the Service himself.

Carta Matthæi de Gerardi-villa.

Matthæus de Gerardi villa, tenet in Capite de Domino Rege Feodum unius Militis de veteri fefamento & nullum habet Militem Fefamentum, nec habet aliquid de nobo.

He performed the Service himself.

Carta Willielmi filii Roberti.

Karissimo Domino suo Henrico Regi Angliæ, Willielmus filius Roberti, Salutem. Sciatis quod de vobis teneo feodum unius Militis pauperrimum, nec alium in eo feodavi, quia vix mihi sufficit, & sic tenuit pater meus. Valete.

By these Records the meaning of *Vetus & Novum Feoffamentum* is very apparent, that it was called so in respect of time only, and not in respect of the Original Feudataries, or their Sub-Feudataries, or *Tenens in Capite*, and Tenents by Measn Tenure in Military Service.

By them also may be discovered the import of the Kings Writ issued to his *Tenents in Capite*, and the End or Design of it. If any Man receives not satisfaction from these, and that other Record in these Animadversions, he may see an hundred more in the Red Book in the Exchequer.

It is agreed on all hands, that the ordinary Curia was held thrice a year, at Christmase, Easter, and Whitsontide, and in the time of Will. 1. the Places were as certain on Christmase at Glocester, on Easter at Winchester, on Whitsunday at Westminster. While they were held at the accustomed places, there was no need of Summons; they that were to come *ratione Tenuræ* might well come *de More*; afterward they removed from place to place, the King made the Court wherever he was pleased to hold it, and indeed when ever; but then it could not be that Curia *de more*, if it were at a different time or place, then there was no need of Summons, if there were summoned at any time more than the ordinary Members of the Curia. If this was on the day of the Curia, there was an union of the Great Council and the Curia, if on a different day, there was a Great Council by it self, yet the Members of the Curia were a part thereof.

Notwithstanding, he says it is agreed on all hands, the ordinary Curia was held thrice a year; I never heard of any one of this opinion but himself; he would make the Great Councils held at these times he mentions, and the Great Confluence of Nobility then to the Kings Court, to be the Kings ordinary Court, for the dispatch of ordinary Business, and Controversies between the King and his Subjects, or between Man and Man.

I will not deny, but often Petitions might be put up, and Complaints made to them about private Matters, such as always have been to the House of Lords, and many more in antient times, than have been for a Century or two of years, and that they did determine, and pass Judgment in those Cases; but that they were therefore the Kings ordinary Court, I think no body will say, but such as never read antient History or Lawyers, or at least, never intended to understand them.

Lib. 1. c. 4.
The Kings ordinary Court,
what it was.

A very brief Description of the Kings antient ordinary Court, we have in the Black-Book in the Exchequer, written in the time of Henry the Second, by an Officer of that Court, *Habet enim hoc commune*, (meaning the Exchequer,) *cum ipsa Domini Regis Curia, in qua ipse in propria persona sua, Jura decernit, quod nec Recordationi, nec sententia in eo lata licet alicui contradicere*. It hath this common (Writing of the Exchequer) with the Kings Court it self, in which he in his own proper Person Decrees Law; in that it is not lawful for any one to contradict what is Recorded there, or a Sentence passed in it.

Of

Of this Court *Bracton* says, *Habet Rex unam propriam Curiam sicut aulam Regiam & Justiciarios capitales, qui proprias causas Regis terminant, & aliorum omnium per Querelam vel per Privilegium sive Libertatem, ut si sit aliquis, qui implacitari debeat nisi coram ipso Domino Rege*; The King hath one proper Court, even as his Royal Palace, and Capital Justices, who determine his proper Causes, and the Causes of others by Complaint, Priviledge, or Liberty; as
 A when a man ought not to be impleaded but before the King himself. And in another place, *Item Justiciariorum quidam sunt Capitales, Generales, perpetui & Majores, à latere Regis residentes, qui omnium aliorum Corrigere tenentur injurias & errores*. Also of Justices, there are some Capital, General, Perpetual, and of greater note, always present with the King, who are bound to correct the Errors and Wrongs of others. *Fleta*, another antient Lawyer writes thus, *Habet etiam Rex Curiam suam, & Justiciarios suos tam Milites quam Clericos locum suum tenentes in Anglia coram quibus & non alibi nisi coram semetipso & Concilio suo, vel auditoribus specialibus falsa judicia & errores Justiciariorum evertuntur & corrigantur, ibidem etiam terminantur Brevia de Apellis & alia Brevia super actionibus criminalibus, & injuriarum contra pacem Regis illatarum impetrata, & omnia in quibus continentur, ubicunque tunc fuerimus in Anglia*. The King hath his Court and Justiciaries, as well Military-men as Clerks his Deputies in England, before whom, and not other where, unless
 C before himself and his Council, or special Commissioners of Oyer, false Judgments, and Errors of Justices, are returned and corrected: and there also are determined Writs of Appeals, and others, upon criminal Actions, and Injuries against the Kings Peace, and all others, in which are contained these words, *ubicunque fuerimus in Anglia*, where ever we shall be in England. By *Bracton* this is called *Magna Curia*, because in a Writ of Right, if the Lords Court failed of doing Right, the Cause was transferred to the County, that the Sheriff might do Right, and so from the County to this Court, if the
 D King would it should be there determined, upon certain proof of failer of Right in other Courts. From this Court all other great Courts in *Westminster*, but the Exchequer, were derived.

Lib. 3. c. 7. n. 2.

Ibid. c. 1. n. 2.

Lib. 2. c. 2. n. 5.

Lib. 1. c. 7. n. 7.

For concerning this Court, 'tis that (a) *Britton* in the Person of King *Edward* the First, (by whose Order he wrote his Book) says, *En primes en droit nous Mesmes & de nostre Court avons issint ordyne, que pur ceo, que nous ne suffisons mye en nostre propre Personne, à Oyer & Terminer toutes Quereles del people avaunt dit, avons party nostre charge ex plusieurs parties sicome icy est ordine*. First of all, in right of our selves and of our Court, we have so ordained. And for that we are not sufficient in our own proper Person, to hear and determine in all Complaints of our People aforesaid; we have divided our Charge into many parts, as is there ordained. And then proceeds, *Nous volons que nostre Jurisdiction soit sur Toutes jurisdictions en nostre Roialme, &c.* We Will that our own Jurisdiction be
 F Superior to all Jurisdctions of our Realm; so that in all Felonies, Trespasses, Contracts, and in all other Actions Personal or Real; we have Power to give, or cause to be given, such Judgments as they will bear, or do appertain to them, (without other Process) wheresoever we know the direct right, as Judge.

(a) P. 1.

This was the *Curia Regis ordinaria ubi-cunque fuerit in Anglia*, but was no *Magnum Commune*, or *Generale Concilium Regni*; which nevertheless, without derogation to it, in respect of Time and Place; if without Summons, there was a great and full appearance of the Great Barons and *Tenents in Capite*, at the Kings Court at *Christmas*, *Easter*, and *Whitsuntide*, might be called *Curia ordinaria*, or *Ex More*. But if it was held at any other time, or at those times by Summons, it was not to be called an ordinary Court or *Colloquium* in respect of Time: And in truth, the Kings ordinary settled and established Court was a different thing from the Confluence of Barons and *Tenents in Capite* at those three great Feasts, which were set and appointed times for Great and General Councils, if there were an appearance sufficient, and any publick Business to dispatch. But by this Charter it was provided, that there should always go forth Summons, and the cause of the Summons to be expressed in it, which needed not have been provided for, if there had been but one Cause, for which they were to be summoned, as our Author avers.

To make good his Assertion, that the *Tenents in Capite* only made a *Curia de More*, or the Kings ordinary Court; and that there were more than those in the Great Councils, he produceth many Instances in several Kings Reigns.

P. 39.

About the fifth year of William the First, as Mr. Selden supposes, was held the Council at *Pinenden-Heath* in Kent, to determine the difference between *Odo Bishop of Bayeux*, Earl of Kent, and Archbishop *Lanfranc*; if this were a *Curia de More*, then 'tis evident, that more than *Tenents in Chief*, nay, all Proprietors Assembled then of course, even at the *Curia*; for the *Probi Homines* of several Counties were there; but it appears, it was upon the Kings Summons to all the Free-holders of Kent, and of some adjacent Counties.

Eadmer, Hist.
lor. fol. 9.
P. 40.

Præcepit Rex Quatinus adunatis prioribus & probis viris non solum de Comitatu Cantie, sed & de aliis Comitatibus Anglia querela Lanfranci in medium ducerentur, Examinarentur, determinarentur.

Ibidem.
Our Author
Transcribes
no further
than Fecit, the
whole as I
have transcribed
it, makes
it clear he understood
not Eadmer, as it
will presently
appear.
P. 40.

Dispositio itaque apud Pinenden principum Conventu Goffridus Episcopus Constantiensis, viz. Ea Tempestate prædices in Anglia vice Regis Lanfranco, Justitiam de suis Querelis strenuissime jussus facere, fecit, Lanfrancus enim valida ratione, subnixus, ex communi omnium astipulatione, & judicio, ibi cuncta Recuperavit, quæ ostensa sunt antiquitus ad jura Ecclesie Christi Cantuariensis pertinuisse, tam in Terris quam in diversis Consuetudinibus.

Here all the *Probi homines*, are by variation of the phrase, *Conventus Principum*; a Bishop was President, and pronounced the Judgment, but it was, as 'tis said afterwards, *Ex Communi omnium astipulatione*.

P. 41.

Here matter of ordinary Justice was determined before, more than the ordinary *Curia*.

This

This looks very like a General Council of the whole Nation; to be sure 'twas more than a Curia of the Kings Tenents and Officers, and is more than a County Court.

Tet in the nature of a County Court; it being several Counties united; and so was adunatio Conciliorum, though not of the Council of the whole Nation. An antient Ms. makes this chiefly a Court of the County of Kent.

Ibidem.

Præcepit Rex Comitatum totum absque morâ considerare & homines Comitatus omnes Francigenas & præcipue Anglos in antiquis legibus & consuetudinibus peritos in unum convenire.

But then it adds, & alii aliorum Comitatum Homines, and confirms what Eadmerus says;

The Kings Commissioners were to pronounce the Judgment; in the Kings name or stead; So the Bishop of Constance did right to Lanfranc. The Inquest upon their Oaths found the Matter of Fact; the Judges stated it to the People, and delivered their Judgment, to which the Primores and Probi Homines assented: For 'twas Ex communi omnium astipulatione: This agrees with what Bracton says of the Laws passed in the Great Council of the Nation. De Consilio, & consensu Magnatum, & Reipublicæ sponfione.

P. 4445.

A true Account of this Meeting at Pinnedene, will demolish our Author's groundless Notion of it, and his perverse Interpretation of Eadmer. Most, if not all the Bishopricks and Abbies in England, were disseized of many of their Lands and Customs by the Normans, upon the Conqueror's coming in; upon Archbishop Lanfranc's Application to him, with whom he advised in many of his Affairs, and the Mediation of other Great Men, he granted a General Writ for the Restitution of whatsoever had been taken from the Bishopricks and Abbies all the Kingdom over, The Form was as followeth,

W. Dei Gratia Rex Anglorum, L. Archiepiscopo Cantuar. & G. Episcopo Constantiarum, & R. Comiti de Ou, & R. Filio Comitum Gil & H. de Monte-forte, suisque Aliis Proceribus Regni Angl. Salutem. Summonete Vicecomites meos ex præcepto meo, & ex parte mea eis dicite, ut reddant Episcopatibus meis, & Abbatiis totum Dominium omnesque dominicas Terras quas de Dominio Episcopatum meorum, & Abbatiarum Episcopi mei & Abbates eis vel lenitate, vel timore vel Cupiditate deriderunt, vel habere consenserunt, vel ipsi violentia sua inde abstraxerunt, & quod hætenus injuste possederunt de Dominio Ecclesiarum mearum, & nisi reddiderint, sicut eos ex parte mea summonebitis, vos ipsos velint nolint constringite reddere. Quod si quilibet alius, vel aliquis vestrum, quibus hanc Justitiam imposui, ejusdem Querelæ fuerit, reddat similiter quod de Dominio Episcopatum vel Abbatiarum mearum habuit, ne propter illud quod inde aliquis vestrum habebit, minus exerceat super meos Vicecomites, vel alios quicunque Teneant Dominium Ecclesiarum mearum, quod præcipio.

Some Gavelk. Append.f. 191. The General Charter of William the Conqueror for Restitution of the Lands taken from Bishopricks, &c.

William,

These were all Normans, and the Temporal Men, great Barons under William. *Vid. Dugd. Baron.*

William, by the Grace of God, King of the English, to Lanfranc Archbishop of Canterbury, and Goisfrid or Galfrid Bishop of Constance in Normandy, and Robert Earl of Ou, and Richard the Son of Earl Gilbert, and Hugh Montfort, Greeting; Summon ye my Sheriffs by my Precept, and on my behalf Command them, that they restore to my Bishopricks and Abbies, their whole Demain (or perhaps rather all their Lordships) and all their Demain Lands, which my Bishops and Abbats, by Fear or Easiness granted away, and consented they should enjoy them; or that they by violence took away, and what they as yet unjustly possess of the Demain or Possessions of my Churches; and unless they shall restore them, according as you shall on my behalf give them notice, you may then constrain them to restore them, whether they will or not; and if any other, or any of you, to whom I have committed the doing of Justice in this Matter, shall be obnoxious to the same Accusation or Complaint; let him restore likewise the Possessions of my Bishopricks and Abbies, lest for that reason any of you prove remiss towards such as hold any Possessions or Lands of my Churches.

This General Writ was the Ground, upon which the Bishops and Abbats proceeded for recovering their Lands; and besides those named in it, all his Great Men of the Kingdom of England were made Commissioners by it; who (as many of them as upon this occasion at any time thought fit to meet) directed their Precept to the Sheriff, and he to the Suitors to the County Court, which were all * Tenents in Military Service (except Barons) and were bound to appear there, under great Penalties, both in the Saxon and Norman times.

*See the Answer, fol. 18. c. & Gloss. Title *Liberi homines*, p. 27.

Grand Custom. f. 93. a. c. 69. de Jurors, & f. 113. b. c. 93. de brief de Novell. Disseisin Glanv. l. 2. c. 17

In Tryals of *Novel Disseisin*, and for the Possession of Lands, Customs, Services, &c. The Juries at the time of the Conquest, and in several of the Kings Reigns next succeeding, were impannelled out of the same Town and Neighborhood, of such as did know the Land, and things in question, and who had been possessed of it, and for what time. And to this purpose in an Assize, if none of the Jurors knew the right it self, or truth of the Matter, and did testify so much to the Court upon Oath, Recourse was then had to others, until such were found, who did know the Truth; but if some did know the Truth, and others not, those that knew it not were put by, and others called into the Court, until twelve at the least should be found to agree therein. And for this purpose it was, that all Suitors to the Hundred and County-Court, were bound to appear there, under great Penalties, that there might be a Jury of such as knew whose the Land was.

In the Longobard or Lombard Laws, and the *Capitularies* of Charles and Ludovicus, and in other old German Laws, (and from Germany, both Normans and Saxons received theirs) we have almost the same Account of Jurors, and they are there called *Testes*; and often in *Domesday-Book* it is thus found, *Testatur Hundreda, Teste Hundreda*; the Hundred witnesseth, that such Land is such a mans, or by witness of the Hundred, such Land is such a mans; See the Claims in *Yorkshire, Lincolnshire, and Suffolk*, at the end of that Book.

And

A And in as many Counties and Shires, as the Church of *Canterbury* had Lands, of which it had been Disseised, the Suitors to the County-Court, where such Lands lay, were by their several Sheriffs, summoned to appear at *Pinenden-Heath* in *Kent* (now *Pikenden-Heath* near *Aylesford*.) To give Testimony whether the Lands which *Lanfranc* claimed in their Counties, belonged to the Archbishoprick, or to *Edo* Earl of *Kent*; and it was a plain County-Court, held before Extraordinary Commissioners, Constituted by King *William*.

The Mannors and Lands in Controversie, being five and twenty Mannors, &c. lay in *Kent*, *Surrey*, *London*, *Middlesex*, *Buckinghamshire*, *Oxfordshire*, *Essex*; and *Suffolk*, though above two parts in three of them, lay in *Kent* only.

Text Ross cited by *Seld.* not in *Eadmer.* fol. 198.

B And the *Primores*, and *Probi viri*, not only of the County of *Kent*, but of other Counties of *England* were these Jurors, which consisted of the Great Military Tenents that were not Barons, and the less, which were the *Probi viri*, for it can be no ways probable, that the ordinary Free-men, which made the greatest number, and were all bound to their good behaviour, could be the *Probi*, and *Legales homines*, which served upon Juries.

See *Liberi Homines* in the *Glossary*.

C To make what is here said more clear, we will take two of his own Instances concerning the Abby of *Ely*, the Abbat whereof was at this time ingaged upon the Foundation of this general *Warrant* from the Conqueror, to recover the Lands that Abbey had been Disseised of.

D *Willielmus Anglorum Rex omnibus Fidelibus suis, & Vicecomitibus in quorum Vicecomitatibus Abbatia de Hely terras habet, salutem. Praecipio Abbatia de Hely habeat omnes consuetudines suas, &c. has inquam habeat, sicut habuit die qua Rex Edwardus, fuit vivus & Mortuus; & sicut mea jussione dirationata sunt apud Keneteford, per plures scyras ante meos Barones, viz.*

P. 41. 42.

E *Galfridum Constantiensem Episcopum & Balwinum Abbatem, & Petrum de Aloniis, & Picotum Vicecomitem, & Tehehen de Helion, & Hugonem de Holsden, & Gocelinum de Norwicum & plures alios, Teste Rogero Bigor.*

F *William, King of England, To all his Feudataries and Sheriffs, in whose Sherifdoms the Abby of Ely hath Lands, Greeting. I Command that the Abbey of Ely have all its Customs, &c. Those I say let it have, as it had them the day in which King Edward was alive and dead; and as by my Command they were proved to belong to it, at Kentford by many Shires, (That is by the Military Tenents, or Suitors to the County-Court of many Shires) Before my Barons, That is to say,*

Galfrid Bishop of Constance, Baldwin the Abbat, Peter de Aloniis, Picot the Sheriff, Cehel de Helion, Hugh de Holsden, Gocelin de Norwico, and many others, witness Roger Bigod.

'Tis most probable this Writ of Possession was directed to his Feudataries, or Norman Subjects, because they had only possessed themselves of the Bishoprick and Abby-Lands. These were all Normans and Tenents in Capite.

His Second Instance which I make use of.

The Conquerors Writ of Right and Possession joyned in one.

Willielmus Rex Anglorum Lanfranco Archiepiscopo, & Rogero Comiti Moritonio & Galirido Constantiensi Episcopo, salutem. Mando vobis, & precipio ut iterum faciatis omnes scyras quæ inter-fuerunt placito habito de terris Ecclesiæ de Hely antequam mea Conjux in Normaniam novissime veniret. Cum quibus etiam sint de Baronibus meis qui competenter adesse poterint, & prædicto placito interfuerint, & qui Terras ejusdem Ecclesiæ tenent. Quibus in unum Congregatis, Eligantur plures de illis Anglis qui sciunt quomodo Terræ jacebant præfata Ecclesiæ die qua Rex Edwardus obiit, & quod inde dixerint ibidem jurando testentur. Quo facto restituantur Ecclesiæ Terræ quæ in Dominico suo erant, on the day of the death of King Edward, &c.

William King of England to Archbishop Lanfranc, Roger Earl of Moreton, and Geoffrey Bishop of Constance, Greeting, I Command you, that again you cause to be Assembled, the Shires which were present, at the Plea or Mote held, concerning the Lands of the Church of Ely, before my Wife last came into Normandy.

With whom also may be present as many of my Barons, as well there can, who were present at the said Plea, and do hold the Lands of the said Church, who being Assembled, may * choose many of such English, as know how the Lands belonged to the said Church on the day of King Edward's death, and what they shall then say, let them testifie upon Oath, which being done, let the Lands be restored to the Church, of which it was possessed of, the day of King Edward's death, &c.

This being premised concerning Tryals for Lands upon Writs of *Novel Disseisin* (where Tenents or Possessors of Lands had been lately disseised) in general, and concerning the same Tryals or Writs brought, and Recoveries made of their Lands, by the Church of Ely in particular; we will see whether our Author understood the words of Eadmer or not: He says,

*Præcepit Rex, quatenus adunatis primoribus & probis viris non solum de Comitatu Cantix, sed & de aliis Comitatus Angliæ, Querelæ Lanfranci Ducerentur, Examinarentur, Determinarentur, disposito itaque apud Pinnedene * Principum conventu, Godfridus Episcopus Constantiensis, Vice Regis, Lanfranco Justitiam de suis Querelis facere jussus, fecit. Lanfrancus enim validâ ratione subnixus, ex communi omnium astipulatione & Judicio, ibi cuncta recuperavit quæ ostensa sunt (a) antiquitus ad jura Ecclesiæ Christi Cantuariensis pertinuisse tam in terris quam in diversis consuetudinibus.*

The King Commanded, that the Chief, and Honest Men, not only of Kent, but of (b) other Counties of England, being called

* Those which Eadmer and Text. Rossen do call *Principes*, are in the Conquerors General Writs, and in Ely Case, called *Proceres & Barones*. (a) That is, *Die qua obiit Rex Edwardus*, as in Ely Case, and the Abby of Ramsey's Case, *Spelm. Glossar verbo Hundred*, and many others. (b) Where the Church of Canterbury had Lands, as in the Case of the Church of Ely.

together,

together, the Complaints of *Lanfranc* should be Propounded, Examined, and Determined. Therefore (*Dispositio apud Pinnedene Principum Conventu*) The (c) Barons, Kings Commissioners or Court being set at *Pinnedene*, *Geoffrey* Bishop of *Constance* in the Kings stead, did *Lanfranc* Justice concerning his Demands, as he was Commanded. For *Lanfranc* supported by strong Reason, by the common Suffrage and Judgment of all of them (*id est*, of the *Princes* or *Barons*)

c.

A Recorded all things which were made * appear to have been the right of *Christ-Church* in *Canterbury*, as well Lands as Customs.

* By the Testimony of the *Primores & Probi Homines*, or per plures *Scyrras*, ante *meas Barones*. As above in the Case of the Abby of *Ely*.

Let any sober knowing Man consider this Relation of *Eadmer*, and think with himself whether he can from thence collect, and say with our Author, that *Probi Homines* are by variation of the Phrase, *Conventus Principum*: That this Meeting at *Pinnedene* (or County-Court, upon an extraordinary Precept, directed to the Suitors of many Counties, to appear before special Commissioners) looks very like a General Council of the whole Nation; or that it was more than a Court of the Kings Tenents and Officers, and more than a County-Court. Or how it was *adunatio conciliorum*, an uniting of Councils, when as this whole Assembly can no ways claim the Title of a Council. Or Lastly, That the Judgment which was pronounced in the Kings name, by *Geoffrey* Bishop of *Constance*, with the assent of all the other Princes, Barons, or Kings Commissioners, was by the common stipulation of all the *Primores* and *Probi Homines*, and that without their consent it had not been Authentick, as he insinuates, but without all colour of Reason.

B

C

For the contrary is evident from the words of *Eadmer* as above, and is made yet more apparent from the Account we have of this *Placitum* or *Mote* in *Textus Roffensis*, cited by *Selden*, *Hujus Placiti multis Testibus, multisque rationibus determinatum finem postquam Rex audiverit, laudavit, laudans cum Consensu omnium principum suorum Confirmavit, &c.* After the King heard this Plea was determined (a) by many Witnesses, and many Reasons, he approved what was done, and confirmed it by the consent of all his Princes or Barons, that is, by a General Council or Parliament of that time.

Not. in *Eadm.* fol. 199. n. 40.

The King and Great Council confirm the Judgment given at *Pinnedene*.

(a) Which were the Jurors or *Primores*, or *Probi Homines*.

But if no Judicious Person can say he hath rightly deduced these his Assertions from the Story; it will be hard to judge whether his Ignorance or Confidence is the greater: However, he is somewhat more modest than *Mr. Petit*, who says this Judgment was given, and tells us, *Eadmer* reports it to have been given, *Astipulatione totius Regni*, in his Right of the Commons Asserted, p. 46.

E

Eadmer hath nothing more of this matter but in this place, and the next Paragraph, where are no such words.

P. 46.

(b) It was no Council, see above. Rot. Pat. 42. H. 3. M. 4.

The Parties assembled at the (b) Council of *Pinnedene*, were the *Primores* and *Probi Viri*, of the Counties concerned, which answer to the *Proceres & Fideles Regni*, in the Union of all the Counties in Parliament, as in the 42 Hen. 3. which in another Record are branched out into, *Hauz Homes*, & *Prodes Homes*, & *du Comun de nostre Reaume*. That is, as the Statute of the Staple has it, the

F

(c) The Barons, Princes, or Kings Commissioners, were *Geoffrey* Bishop of *Constance*, *Rich. de Tunebrigge*, *Hugo de Montefortii*, *Ws. de Arces*, *Haymo Vicecomes*, and many others of the Kings Barons. *Seld. Not. in Eadm.* fol. 119. n. 10. from *Text. Roff.*

Prelates, Dukes, Earls, Barons, the great Men of the Counties, Grands des County's, as the French, and the Commons of the Cities and Burghs.

How far the *Primores* and *Probi Homines* assembled at *Pinnedene*, answered to the *Proceres & Fideles Regni*, see before what hath been said of that Meeting.

See this Record at the end of the Animadversions. (a) See the Answer, p. 199. Pat. 42. H. 3. M. 4. Have granted that 24 of our Men, &c.

The French Record he cites to prove it, 42 *Hen. 3.* was a Commission, by which in pursuance of the Oxford (c) Provisions, the King was forced to appoint Twenty four Persons which were to order the State of the Realm, though the Record runs thus, *Henr. par la Grace Dieu Rei Dengl. &c. à touz ceus, &c. sachiez que par le profit de nostr. Reaume, & à Request de nos Hauz Homes, & Prodes Homes, & du Comun de nostr. Reaume, Orepanes que vinte quatre de nos Homes, &c.*

The Twenty Four by the same Record had Power to choose Four who had Authority to choose the Kings Council: *Les queus vinte quatre desus nomez Esturens quatre, as queus quatre il Donerent leur poer de Eslire nostr. Conseil des Prodes Homes de nostre terre, &c.* Which Twenty Four under-named shall choose Four, to whom they shall give their Power to choose our Council of the Wise Men of our Land, &c.

Hauz in this Record is the same that *Haults*, Men of High Degree, *Proceres*, *Magnates*, &c. and were the great Barons. And *Prodes Homes* for *Prudes Homes*, (for so I have seen it written, though I cannot call to mind the Record) *Viri Prudentes*, or *Sapientes*, *Wise*, *Discreet Men*, not *Probi Homines*, as our Author would have it, for certainly the ordinary sort of Freeholders, which he means by the *Probi Homines*, or the Jurors which are called *Probi* and *Legales Homines* in our ancient Lawyers, Records and Histories, were never Members of the Kings Council, which according to this Record was to be, *des Prodes Homes de nostr. Terre*, of the Wise Men of the Kingdom, and these *Hauz Homes* and *Prodes Homes*, were no other than *Viri Nobiles ac discreti*, as *Paris* calls them, such as were sent to the Council of *Lyons* in the Name of the whole University of the Kingdom, about the Papal Exactions, &c. who were Earl Roger Bigod, John Fitz-Geoffrey, William de Cantelup, Phillip Basset, Ralph Fitz-Nicholas, all great Barons, and Mr. William Poweric then Secretary.

See Answer, p. 149.

See *Communitas Regni* in the Glossary.

Et du Comun de nostr. Reaume, what the *Communitas Regni*, the Community of the Kingdom was in these times; see Answer from F. 75. D. to F. 85. and from F. 103. A. to F. 111. C.

But because this Record is cited in other late Writers, as in Mr. *Petit's* Appendix to the Antient Rights of the Commons, &c. p. 169. in the Margin, and in the Reflections upon *Antidotum Britannicum*, printed with the Lord *Hollis* his Remains, p. 226. To prove that the Commons, as at this day, were a constituent part of the Parliament: I will grant what they would have, that is, that *Prodes Homes* are to be Translated *Probi Homines*, and yet shall shew, that these *Probi Homines* in this Record were Barons, and that the

Appellation

Appellation of *Probi Homines* was sometimes given to Bishops, Earls, and Barons; and this will appear by comparing this Record with others about the same Affair.

The King at this time imprudently had accepted of the Popes Gift, of the Kingdom of *Sicily* and *Apulia*, to his Second Son *Edmund*, and all the Money he could any ways procure, he sent to the Pope, to beat *Conrade* out of that Kingdom, and also became bound to the Pope in vast Sums of Money. The Welsh likewise at this time invaded *England*, committing great Rapine and Slaughter, and by these means the King was reduced to great Streights; out of which, that he might extricate himself, he called a Parliament or great Council at *London* in the *Quindene* of *Easter*. But the Barons taking advantage of his necessities, (with fair Promises, which they never performed) brought him into greater Difficulties, as the following Record will shew us.

Paris. fol. 963.
n. 40. Mat.
ellm. f. 358.
n. 20.

Rex omnibus, &c. cum pro negotiis nostris arduis nos & Regnum nostrum contingentibus, Proceres & Fideles Regni nostri ad nos London, in Quindena Pasche proxime praterita faceremus convocari, & cum de negotiis supradictis, & maxime de prosecutione negotii Sicilie, diligenter cum eisdem tractaremus, ac ipsi nobis Responderunt, quod si statum Regni nostri per Consilium Fidelium nostrorum, ratificandum Duxerimus, & Dominus Papa conditiones circa factum Sicilie appositis melioravit, per quod negotium illud prosequi possemus cum effectu, ipsi diligentiam fideliter apponent erga Communitatem Regni nostri, quod nobis Commune Auxilium ad hoc prestetur, Nos eis concessimus, quod infra festum Natalis Domini proximo futurum, per Consilium Probozum & Fidelium hominum nostrorum Regni Angliæ, una cum Consilio Legati Domini Pape, si in Angliam medio tempore venerit, Statum Regni nostri ordinabimus, & Ordinationem illam; firmiter observabimus, & ad hoc fideliter observandum, supponimus nos Cohercioni Domini Pape, ut nos ad hoc per censuram Ecclesiasticam prout expedire viderit valeat actare, &c. Dat. apud Westminster 2. die Maii.

Rot. Pat. 42.
Hen. 3. m. 10.

By this shew only of giving the King an Aid, the Barons obtained from him this Grant, but by a serious, and as he thought, a real Promise, to assist him with Money, they drew from him a more particular Grant of his Crown and Government, leaving out the Popes Legate, lest he should not come in due time to serve their purpose, or if he should come, that they might not have any Contest with, or be over-ruled by him.

Rex omnibus, &c. Noveritis nos concessisse, Proceribus & Magnatibus Regni nostri Juramento in animam meam per Robertum Walerand prestitum quod per 12 Fideles de Consilio nostro jam Electos, & per alios 12 Fideles nostros. Electos ex parte Procerum ipsorum, qui apud Oroniam a festo Pentecostes proximè futuro, in unum mensem convenient, ordinetur, redificetur, & reformetur status Regni nostri, secundum quod melius viderint expedire, ad Honorem Dei, & ad fidem nostram, ac Regni nostri utilitatem, & si forte aliqui Electorum ex parte nostra absentes fuerint, liceat illis qui presentes fuerint, alios substituere loco absentium, & similiter fiat ex parte prædictorum Procerum & Fidelium nostrorum, & quicquid per viginti quatuor utrinque Electos

Pat. 42. Hen. 3.
M. 10. Pro Re-
ge & Baro-
nagio.

Electos & super hoc juratos vel Majorem partem eorum circa hoc ordinatum fuerit inviolabiter observabimus. Volentes & firmiter ex nunc precipientes quod ab omnibus observetur eorum ordinatio, & securitatem omnimodam quam ipsi vel major pars eorum ad hujus rei observationem, providerint, vel providerit eis sine qualibet contradictione plene faciemus & fieri procurabimus, &c. Promiserunt etiam nobis Comites, & Barones, Memorati, quod expletis negotiis superius tactis, bona fide laborabunt ad hoc, quod auxilium nobis commune praestetur à Communitate Regni nostri. In cujus, &c. Dat. ut supra 2. die Maii.

This was the Famous Parliament or Colloquium, that met at Oxford in the 42th of Henry the Third, on St. Barnaby's day, Anno Domini 1258. in which year Easter-day was March the 24th, and Whit-Sunday May the 12th, so that Barnaby-day was just a Month after Whit-Sun-Tuesday, and agrees for time with this Record.

Both these Records are of the same Date ; In the first it's said, the King called the *Proceres* and *Fideles Regni sui* to London, fifteen days after Easter, and granted to them that the State of his Kingdom should be ordered *Per Consilium Proborum & Fidelium hominum suorum Regni Angliae*, together with the advice of the Pope's Legate. In the second 'tis said he granted to the *Proceres* and *Magnates Regni sui*. That Twelve * *Fideles* then chosen out of his Council, and Twelve other *Fideles* to be chosen on behalf of, or by the *Proceres*, or Great Men which were to meet at Oxford a month after Whit-Sunday, should reform and rectifie the State of the Kingdom according as they should think fit, and what the *Proceres* and *Magnates* were, that should choose the Twelve *Fideles*, we are told in the close of the Record, where they are called Earls and Barons, *Promiserunt etiam nobis Comites & Barones Memorati*, &c. which words must refer to the *Proceres* and *Magnates* mentioned in the beginning of the Record, there being no other words they can be referred to, for the words *Comites* and *Barones* are only mentioned in this one place of the Record, and no where else.

From hence we may note, that the *Proceres* in one Record, and *Proceres* and *Magnates* in t'other, were the same Persons, and that they were Earls and Barons. That the *Probi* and *Fideles* in one Record, which at the request or instance of those Earls and Barons, were to order the Kingdom, and the Twelve *Fideles* that were chosen by the Earls and Barons in t'other Record were Persons of the same Order, Rank, and Degree: That the Twelve chosen by the King, were of his Council, and in all probability the Twelve chosen by the Earls and Barons, were some of themselves, or other very Eminent Persons of their own Inclinations. And lastly, we may note from these Records, that none of the Four and twenty were ordinary Men, common or ordinary Freeholders or Plebeians, as these Writers would have it. Henry de Wengham Dean of St. Martins Le Grand, London, and then Keeper of the Great Seal was one of them, and John Mansel Provost of Beverlay, and Treasurer of the Church of York, who had lately been Keeper of the same Seal, was another, which perhaps might not be Barons, yet were Eminent Clerks, or Lawyers in those times, and men of Great Abilities ; and for these reasons reckoned amongst the *Magnates* ; and to this very

* Confiding men.

Rot. Pat. 42.
Hen. 3. m. 6.

very purpose and meaning, *Mat. Westminster* delivers the sum of these two Records.

Anno igitur Regni Henrici Tertii 42. Convenientibus Oxoniæ Di-
litibus Baronibus & Prelatis, *Edictis publicè evocatis, cum arma-*
torum potenti & innumera Comitibus, presentibus Domino Rege, & Do-
mino Edwardo; primogenito ejusdem, communi deliberatione, imo De-
liratione, taliter ordinarunt: Ut quia idem Regnum Reformatione mul-
tuplici sui status egebat, Dicitus Rex pro se Duodecim Personas de
Regno, & Tota Terra Communitas alias Duodecim providerent,
qui Regia potestate suffulti totius Regni curam susciperent, &c. And a
 little after he hath this Passage, after a Narrative of some of their
 Actions. *Videntes ergo Procures antedicti viginti quatuor, ad Regis*
& Regni regimen sic Electi, tot multiplicatis capitibus, Monarchia sub-
lata, Commune Dissidium jugiter invalescere, & confusions illius, quæ
Diebus istis evenit, periculum imminere, omnes præter Quingue sub-
scriptos, scilicet Episcopum Wigorniensem, & duos Comites præ-
dictos, (the Earls of Gloucester and Leicester) Hugonem Dispensa-
tozem, and Petrum de Monteforti, ad Dissolvendum Ordinationes &
Provisiones hujusmodi provisas, & ad reducendum Regem in statum de-
bitum consenserunt.

Mat. West.
fol. 391. lin. 2.

Ibid. lin. 40.

And now we come to the French Record, which these Writers cite so often by *Parcels*, which in Time and Date follows these before noted.

Henr. par la Grace Deu Roi D'engleterre, &c. a touz cens, &c. Sa-
chiez qe pur le profit de nostre Reaume, e a la Requeste de nos Hauz
Homes e Prodes Homes e du Comun de nostre Reaume Otreiyames qe
vint quatre de nos homes eusent poer qe qe tout ce qil ordeneirent del
Estat de nostre Reaume fust ferme e estable, e ce fermes juzzer en nostre
Alme e Donames de ce nos Lettres Overtes, & de ce meesmes jurra Ed-
ward nostre sieuz einzne e de ce dona ces Lettres Overtes, Les queus
vint quatre desus nomez eslurent quatre as queus quatre il Donerent
lour poer de eslire nostre Conseil des Prodes Homes de nostre Terre, Le
quel Conseil nos avuns promis & promettuns craire al adrescement
e al amendement de toutes les Besoignes qe aperteignent à nos, e a nostre
Reaume, & nos voluns qe lavant Dit Conceil ou la greinure partie
*puissent eslire Prode Home ou Prodes Homes qe soient en * lui*
de celi ou de cens qui defauderunt, & nos averun ferme e estable
quange lavant dit Conseil ou la greinure partie fera. E Coman-
dum fermement, qe touz nos feaus e nos homes ausi laient e soient tenuz
fermement garder touz les establissemenz les queus il ferunt al honur de
Deu e nostre foi e au profit de nostre Reaume. Et en Tesmoignance de
ceste chose nos avuns fet mettre nostre seel a set presente Lettre. Ceste
chose feu fete a Lundr. landemaigne prochein apres la Gaulehaut lan de
nostre corounement quarante secund. ceste lettre est Doublee e livere al
Cunte le Marescal per le Roi e sun Conseil.

Here we see
 the *Hauz Ho-*
mes, and *Pro-*
des Homes,
 were none of
 the Commu-
 nity of the
 Kingdom, and
 therefore no
 ordinary Te-
 nents in Ca-
 pite.

* Lieu.

Though I cannot tell what is here meant by *Gaule Hant*, and so cannot certainly make out the Date of this Record, yet it was Dated some time after the other, for here it is said, That the 24 were to choose Four, which no doubt were to be *Prodes Homes*, well-affected, or well-inclined, and those Four were to choose the Kings Council, *des prodes Homes*, of the well-affected or well-inclined;
 and

and the Four at this time chosen, were **John Mansel** aforesaid, **Roger le Bigod** Earl of *Norfolk*, and Marshal of *England*, **Hugh le Bigod** Justiciary of *England*, chosen by the Barons, and Brother to **Roger** Earl-Marshal, and **John de Pleffetis** Earl of *Warwick*, as appears by *Rot. Pat.* 42 *Hen.* 3. M. 6. *Teste Rege apud Oxoniam.* 22 *Junii*. So that this Record was dated after *Barnaby-day*, and probably about or after the 22th of *June*.

Here 'tis said, that at the Request of the *Hauz Homes e Prodes Homes e Commun de nostre Reaume*, and the Community of the Realm, the King granted that 24 of his men, should have Power, that whatever they ordered concerning the State of the Realm, should be firm and stable, as it had been firmly sworn on his behalf. Seeing therefore that these *Hauz Homes* and *Prodes Homes*, who with the Community of the Realm, requested the King, &c. were none of that Community, as is clear from the very words of this Record, they must be, and were the *Proceres* and *Magnates*, the Earls and Barons mentioned in the last Record, to whom the King had granted the same thing. *Rex omnibus, &c. Noveritis nos concessisse Proceribus & Magnatibus Regni nostri, Juramento in animam meam per Robertum Walerand prestitum, quod per 12 Fideles de Consilio nostro jam electos, & per alios 12 Fideles nostros electos ex parte Procerum, &c.* as before dated *May* the second.

In the Charter Roll of the 49th of *Henry* the Third, Membrane the Fourth and Fifth, there is a French Record, and a Latin Record about the same matter, the Peace (as it is there called) concluded after the Battel of *Lewes*, in which *Hauz Homes*, and *Prodes Homes* are expressed by Prelates, Earls, and Barons, and such of those as were of the Faction against the King, have the Epithet of *Prodes* adjoynd to them.

And further to prove that the Bishops, Earls, and Barons, and other great men, were sometimes called *Probi Homines* in the plain and true meaning of the words, and that they were not always appropriated to ordinary men, (and perhaps but seldom attributed to them in antient times) take this Record.

Ryley's Placita
Parliament.
f. 246. as before

Ad Petitionem, Archiepiscoporum, Episcoporum, Prelatorum, Comitum, Baronum, & aliorum proborum hominum, (which words imply the Archbishops, Bishops, Prelates, Earls, and Barons to be such) *de terra petentium, quod Rex concedere velit, quod possint Talliare antiqua Dominica, unde sunt in Tenancia, desicut Rex Dominica sua Talliavit. Ita Responsum est. Fiat ut petitur.* These *alii Probi Homines* that petitioned the King for leave to Tax their Tenents, of the antient Demeasns they held of him, were no Plebeians or ordinary People, but such as held Mannors, and considerable Lordships of him, to them and their Heirs, under small Rents and Services, for all Services, and such commonly, as they or their Ancestors had merited well of our antient Kings, for the Service they had done, and received those Lands on that account.

P. 47.

That Freeholders had the Appellation of Milites, is evident by many Records.

I will not deny that *Milites* were Freeholders, but they were *Libere Tenentes in servitio Militari*, Freeholders in Military or Knights Service, and not the ordinary Common Freeholders, as at this day which he intends. See *Gloss.* in the words *Milites*, and *Liberi Homines*, an Answer, p. 150.

Milites and common Freeholders not the same.

A In the Fourth of this King (meaning William the First) the Controversie between the Archbishop of York and the Bishop of Worcester was determined at *Pedreda*, before the King, Archbishop Lanfranc, the Bishops, Abbats, Earls, & *Primatibus totius Angliæ*; this Mr. Selden rightly calls a Parliament; which is easily to be gathered from the large and comprehensive signification of *Primates*. Hoveden's words are, *Wulfstani Querela, in Concilio in loco qui vocatur Pedreda Celebrato, coram Rege ac Doroberniæ Archiepiscopo Lanfranco & Episcopis, Abbatibus, Comitibus & Primatibus totius Angliæ, est terminata.*

P. 54.

R. Hoveden, fol. 453.

Fol. 260. a. n. Lon. Edit.

B It's enough this Gentleman thinks, to say only that *Primates* was a word of a large and comprehensive signification to prove that there were more than *Tenents in Capite* in this Great Council, which he ownsto be a Parliament in his own sense, and says, Selden rightly calls it so. In which place of Selden he might easily have observed his opinion of the signification of *Primates*; under which he tells us, the Temporal Barons being not Earls were comprehended, although sometimes the same word, as *Proceres* or *Magnates* comprehend both them and the rest also: that is, both the Spiritual and Temporal Barons.

Tit. Hon. f. 580

C Many such Instances as this he brings of great Councils in the Reigns of William the First, and Second, Henry the First, King Stephen, Henry the Second, Richard the First, to prove there were more than *Tenents in Capite*, nay ordinary Freeholders in them: But in the words he himself cites them in, the *Primates, Primores, Proceres, Magnates*, and *Nobiles* are always the constituent parts of them; or the *Clerus* and *Populus*; which when he evinceth them to be, and those words to signifie the Common Freeholders, as at this day, or that ever there was an *Adunation* (as he calls it) of all the Freeholders in every County in a General Council, I will be of his opinion.

From p. 54. to p. 219.

For the meaning of *Clerus* & *Populus*, see Answer from p. 56. to p. 63

E But it lies upon me to shew when and how the *Curia Regis* went off, *Communia placita non sequantur Curiam nostram sed teneantur in aliquo loco certo.* Hereby the Administration was taken from the ordinary *Curia*, and fixed at the Courts in Westminster.

P. 191. Magna Charta c. 11.

F The Kings ordinary Court, or at least a great part of it; remains still, viz. the Kings-Bench, and went not off by reason of this Article in *Magna Charta*, and he would have found a better reason in Britton, how the Kings ordinary Court went off, or rather was branched out, and divided into several Courts and Jurisdictions, because the King was not sufficient to hear and determine all the Complaints of his People, &c. as we have said before, in shewing what the Kings ordinary Court in ancient time was. Nor could this Clause in *Magna Charta* be any ways prejudicial, or abate the Power and Jurisdiction of the Common Council of the Kingdom, mentioned in King John's Charter, (he making that all along in his

P. 1. a. & Bradon, Fol. 168. a.

Paris, fol. 257.
n. 30.

Discourse the *Curia Ordinaria*) for those words, *Communia placita non sequantur Curiam nostram, sed teneantur in aliquo loco certo*, are in King John's *Magna Charta*, within five lines after the provision made for the Summons of the Great Barons, and all other *Tenents in Capite*, which were only the Constituent parts of that Great Council: So that if this Council summoned as there is directed, were the *Curia Regis Ordinaria*, and went off by reason of this Clause, it certainly went off before it began; which could not be: And 'tis manifestly proved in the Answer, that after the Granting of this Charter by King John, there were many General and Great Councils, or *Colloquiums* summoned by Edict according to the Form there prescribed.

A

* F. 130. D. & C.

And if any Man desires to know the period of these Great Councils, and how they went off, let him read the Historical Account of the Parliament 49th of Henry the Third, and of some other Parliaments afterwards, in the Answer, * &c. too long to be inserted here.

B

From p. 193. to p. 219. this Author labors much, to invalidate the Right of the Bishops to Vote in Capital Causes, and thinks he hath wholly defeated the solid and learned Treatise, called, *The Grand Question*, &c. But if he thinks fit to read over that Book once more, and to observe it well, and compare it with what he hath said, he will find it anticipated and answered; and if he hath not a mighty strong Fancy of his own Abilities, must be ashamed of his Impertinent Rapsody. There is nothing said worthy the notice of this learned Author, and the Controversie is Foreign to my Design.

C

P. 219.

I shall give (saith the Author of this new Face) one plain Instance of a Great Council, and another of an ordinary Court in this Kings Reign (meaning Hen. 2.)

D

Benedictus Abbas, p. 72. in Bib. Cotton. Jul. A xi.

Circa Festum Sancti Pauli venit Dominus Rex usq; Northampton & magnum ibi celebravit concilium de statutis Regni sui coram Episcopis, Comitibus & Barinibus Terræ, & coram eis, per Concilium Comitum & Baronum, Militum & Hominum suorum hanc subscriptam assisam Fecit, &c.

This was more than an ordinary Curia, and there being the Barones Terræ, the Milites & Homines sui, are not to be taken for his Feudal Tenents, but his Liege People.

E

Milites & Homines sui, were the Kings Feudal Tenents.

Notwithstanding the Barones Terræ are mentioned in this Great Council, why are not the Milites & Homines sui the Kings Feudal Tenents? In King John's Charter 'tis said, that all the Great Barons (which properly were Barones Regni, Barones Angliæ, or Barones Terræ) should have particular Summons, & omnes alii qui de nobis Tenent in Capite; all others that held of the King in Chief, which here are expressed by Milites & Homines sui, should have general Summons by the Sheriffs of Counties. So that this is a plain Instance of a Great Council, according to King John's Charter, and proves that to be more than an ordinary Curia. And further, If the Milites & Homines sui were not the Kings Feudal Tenents, but his Liege-
People,

F

People, that is, the Kings Subjects in general, then Tradesmen, Servants, and vast numbers of others of the Kings Liege-People, were Members of this Great Council, which no Body, I think, but himself and Mr. *Petyt* will aver.

A In Page 49 he says, *Fulcherus homo Vicecomitis*, was his Tenent in Knights Service; and why are not *Homines sui*, that is, *Regis*, the Kings Tenents in Knights Service in this place? that is, his *Tenents in Capite*, or Feudal Tenents; he ought to give some reason for his Confidence, before he can think to be believed.

B But this *Adamantine* Forehead, in his Reflections upon *Antidotum Britannicorum*, &c. printed with the Lord *Hollis's* Remains, *A.D.* 1682. p. 247. hath cited over again, this very place, out of *Benedictus Abbas*, as he hath cited it here, and in the same words. To prove there was a difference between the *Barones Regis*, & *Regni*, and that there were other Barons of the Kingdom than the Kings great *Tenents in Capite*; and thus Comments upon it.

C I conceive the difference between *Baro Regni*, and *Regis*, is sufficiently shewn in this Authority (meaning this Citation:) Here are *Barones Terra*, or *Regni*, and *Barones Milites*, and *Homines sui*; Here either all the *Barones Regni* were *Barones Regis* or *sui*: And then his distinction between *Baro Regni* and *Baro Regis* falls to the ground, there being no difference; or else there is that very difference I stand upon, *viz.* That the *Barones Regni* were comprehensive of all sorts of Barons; the *Barones Regis* were the Kings *Tenents in Capite*, amongst which there were Knights at least; and the *Homines sui*, I take it, were his Great Officers and Justices. These made a Select Council, acting in Parliament or out of it, either in a full Body, or contracted by Agreement, as I could easily shew.

The Reflectors own words, P. 247.

D These Deductions caused me to look again into this Author, and I found that in Transcribing this Passage, he had left out the very words which would have directed the Reader to the understanding of the Difference here made, by *Benedictus Abbas*, between the *Comites & Barones Terra*, and the *Comites, Barones, Milites & Homines sui*; the true Transcript, and words of the Monk are these.

E Anno 1176. (which was the 25th of Hen. 2.) Circa Festum Conversionis Sancti Pauli, venit Dominus Rex usque Northampton, & Magnum ibi celebravit Concilium de Statutis Regni sui, coram Episcopis, & Comitibus, & Baronibus, Terra sue; & coram eis, per Concilium Regis Henrici filii sui, & per Concilium Comitum, & Baronum, & Militum, & hominum suorum, Hanc subscriptam assisam fecit, &c.

Benedictus Abbas, p. 72. b. lin. 5. sub Effigie Julii. A. xi. in Biblioth. Cotton.

F King Henry the Second, when he had caused his Son to be Crowned, *A.D.* 1170. and caused also the Earls and Barons to do Homage, and Swear Fealty to him; (saving the Homage and Fealty they had done, and sworn to himself) he granted him the Government of the Kingdom in his Absence, and caused a new Seal to be made for him, by which he was to manage it. And it cannot be doubted, but that to make him look more like a King, he assigned

Ibid. p. 30 a.

Ibidem.

* Or they might be called his Earls, Barons, Knights and Men, because they had done Homage, and sworn Allegiance to him.

some Earls and Barons, Knights, and other Military-men, who attuned Tenents to him, or some new Earls and Barons were created, as immediate Dependents on him, and the Knights and other Military Tenents followed, and held on the Lands, Manners, and Honors that were assigned to maintain and support his Court and Kingship, * and the Kings *Comites* and *Barones Terræ suæ*, were the Earls and Barons of his Kingdom, that held immediately of him, or were his immediate *Tenents in Capite*.

In his Coment upon so much as he had transcribed out of the Monk, he says he could easily shew some things he only points at there; and well he may, with the Liberty he takes to leave out the most material words in what he cites, that direct the true meaning of an Author or Record, and then joyn the other parts of it together as he pleaseth, and so makes an Authority for his own purpose, which without such villainous Practices, could not have been produced to give the least advantage to his Groundless, Seditious, and popular Opinions. As in this Case he hath left out the word *Sue*, after the word *Terræ*, which would have ascertained what the Earls and Barons first mentioned were; and then after the words, *& Coram eis*, he hath left out this Sentence, and *Per Concilium Regis Henrici filii sui*, before these words which were annexed to, and were part of it, *& Comitum, Baronum, Militum, & hominum suorum*; that is, King Henry, the Sons, Earls, Barons, Knights, and Military Tenents, mentioned in the second place. If this passage of *Benedictus Abbas*, be good Authority, it directly proves, that the great Councils or Parlements of those times, consisted only of the *Tenents in Capite*, or whom besides the King was pleased to call, and that he might call such as he pleased. The Assize made in this Great Council, were the Articles of Inquiry for the Justices Itinerant, or the Heads of the *Iter*. The Division of the Kingdom into six parts, or Circuits, and appointing Justices to every Circuit.

Hoved, fol 313
a. n. 50.

* He mistook Nottingham for Northampton. 'Tis probable it should have been Northampton as in Ben. Abbas.

King Henry the Second's Son, was Crowned King in his Life-time, and dyed before his Father.

Roger de Hoveden, at this time one of Henry the Second's Clerks, repeats the constituent parts of this Great Council, somewhat otherwise than they are found in *Benedictus Abbas*, An. Gratia 1176. *Post natale Domini in Festo conversionis Sancti Pauli venit Dominus Rex Pater usq; * Nottingham, & ibi celebravit magnum concilium de statutis Regni & coram Rege Filio suo, & coram Archiepiscopis, Episcopis, Comitibus & Baronibus Regni sui, Communi omnium concilio, Divisit Regnum in sex partes, per quarum singulas tres Justiciarios itinerantes Constituit, &c.* In the year of Grace, 1176. after Christmas, in the Feast of the Conversion of St. Paul, King Henry the Father, came to Nottingham, or Northampton, and held a Great Council there, concerning the Statutes of his Kingdom, before the King his Son, and before the Archbishops, Bishops, Earls and Barons of his Kingdom.

The *Milites & Homines sui*, being *Tenents in Capite*, were here comprehended in the word *Barones*, and 'tis very usual for the *Tenents in Chief* to be stiled Barons. Histories are full of Instances every where, and it is needless to produce any; of these consisted the *Baronage* of England, as in the Answer P. 146. Notwithstanding, 'tis highly probable that the Great Barons were ever created by

by Ceremony, as Mr. *Elfyng* seems to have proved in his manner of holding Parliaments, from p. 28. to p. 46. and there is a notable Instance in *Hoveden* to this purpose. *Eodem Die Coronationis sue Johannes Rex accinxit Willielmum Mareſcallum gladio Comitatus de Striguil, & Ganſeidum filium Petri gladio Comitatus de Eſſep. Qui licet ante vocati eſſent Comites, & adminiſtrationem ſuorum Comitatum habuiſſent, tamen non erant accincti Gladio Comitatus.* Other Ceremonies were anciently uſed in the Creation of Earls, Barons, &c. as Inveſtiture by Robes, Delivery of Banners, Gold Rings, &c. but not all of them perhaps here in England.

Fol. 451. a. n.
40. Anno Do-
mini 1199.

This Relation of *Hoveden's* of the ſame Council, is a clear Ex-
planation of the other in *Benedictus Abbas*, who in all probability
was Abbat of *Peterborough*, and wrote the Life of *Henry* the Second,
and died before *Hoveden*, whom he mentions as one of the Kings
Clerks, p. 65. a. linea penultima.

Piſſus.

Ralph de Diceto Dean of *St. Pauls*, Anno Domini 1210. a diligent
ſearcher into the Hiſtories and Tranſactions of his own and former
times, doth yet more fully declare the meaning of *Benedictus Abbas*,
in the Account he gives of this Great Council.

Piſſus in that
year.

*Rex juxta Conſilium filii ſui Regis coram Episcopis, Comitibus, Baronibus, Militibus, & aliis hominibus ſuis, in hoc ſcientibus, constituit Juſticiarios in ſex partibus Regni ſui, in unaquaque tres, qui Juraverunt quod ſuam cuique Juſtitiam conſervabunt. Hoc autem factum eſt apud Northamptonam, vii Kal. Februar: which is the day after the Conversion of *St. Paul*, and agrees with the time of *Benedictus Abbas*; and here is certainly his meaning clearly diſcovered, and by the words it is evident, that only *Tenents in Capite*, and in Military-Service, were the conſtituent parts of this Parliament or Great Council.*

Imag. Hiſtor.
Col. 588. n. 40.

This Instance of a Great Council being diſpatcht, which no
knowing man can think that it conſiſted of any other Perſons than
Tenents in Capite. I come to his ſecond Instance concerning the
Curia Ordinaria, or the Kings Ordinary Court.

This Instance is taken out of *Sir Henry Spelman's* Gloſſary in the
word *Finis*; and 'tis from the Form of a Fine Levyed in the Ord-
inary *Curia*.

P. 219, 220.

Hac eſt finalis Conventio facta in Curia Domini Regis apud Clarendum Anno 33 Regis Hen. ſecundi coram Domino Rege & Johan. filio ſuo & aliis Baronibus & fidelibus qui tunc ibi preſentes erant, &c.

At Clarendon
in Wilſhire
our ancient
Kings had a
Palace.

The words in *Spelman* are theſe, *Hac eſt finalis Conventio, facta in Curia Domini Regis apud Clarendum anno 33 Regni Regis Hen. ſecundi, coram Domino Rege & Johanne filio Ejus & Ra. de Glanvil & Hubert Decan. Eborac. & Rad. Archidiacon. Hereford. & Robert. de Witeſfield, & Roger. fil. Reinſfr. & Roberto de Inglesham Archidiacon. Gloceſtr. & Joſel. Archid. magiſtro Thoma de Buſſeturn, Mich. Belet, & aliis Baronibus, & fidelibus Domini Regis qui tunc ibi preſentes erant.*

This

This is the Final Agreement made in the Court of the Lord the King at *Clarendon*, in the 33 year of the Reign of King *Henry* the Second, before the Lord the King, and *John* his Son, and *Ranulph de Glanvil*, and *Hubert* Dean of *York*, and *Ralph* Archdeacon of *Hereford*, and *Robert de Witefield*, and *Robert Fitz-Reinfrid*, and *Robert de Inglesham* Archdeacon of *Glocester*, and *Josel* Archdeacon
 Mr. *Thomas de Buffecurn*, *Mich. Belet*, and other Barons and Feudataries of the Lord the King which were then present.

A

Dugd. Chron.
Series, Fol. 4.
Annis 26. &
33 Hen. 2.
Ibidem.

The most of these Persons, Archdeacons, and others, were the Kings Justices; and at this time his Court was wheresoever he was; The very same year there was a Fine Levied in *Curia Regis apud Cantuariam Die veneris prox. post festum Sancti Johannis Baptistæ present. Rad. Archdiac. Colcest. Roger. fil. Reinfrid, Robert de Witefield, Mich. Belet.* The very same Justices.

B

This was certainly an ordinary Court, such as is described before in these Animadversions; and was holden before the King and his Council, *Coram Rege & Concilio*, his Privy-Council, and that was the Reason of the Addition of, *& aliis Baronibus, & Fidelibus Domini Regis qui tunc ibi presentes erant*, after the Justices.

But this was no such *Curia*, or Common-Council of the Kingdom, as is mentioned in King *John's* Charter, which all along he hath from the beginning of his Book, affirmed, was a *Curia Ordinaria*, for the dispatch of Ordinary Business only.

C

The Kings ordinary Court remained after the Common Council according to King *John's* Charter was abolished.

4. Institut. fol. 60.

When this Common-Council of the Kingdom established by King *John's* Charter, ceased to be after the 49th of *Henry* the Third, yet the Kings Ordinary Court continued in the several Kings Reigns, in all its Branches, Divisions, and Derivative Jurisdictions, and therefore not the same; for the Kings-Bench, and Common-Pleas, those two parts of it which were Stationary in *Westminster-Hall*, there can be no doubt made of them; and for the Court also which retained the Title of *Coram Rege & Concilio*, there is a notable Case and Record cited by Sir *Edward Coke*.

D

A Suit depending before the King and Council between the Abbat of *St. Austins Canterbury*, and others, concerning Wrecks, &c. The Abbat brought his Action at Common-Law against the Parties, who being thereupon Arrested and Imprisoned, the Sheriff was commanded by the Kings Writ to deliver them, and to forbear to serve any Process against them, and the Reason there given (saith Sir *Edward*) is notable.

E

Rot. Cl. 16.
Ric 2. (m) 11.
Dorf.

Quia non est juri Consonum, aut honestum, quod aliquis de hiis que coram nobis & Concilio nostro in Discussionem pendent, alibi inde interim placitari debeat aut apparere. That is, because it is not Consonant to right, or honest, that any Man should be impleaded; or appear any where for any things, that are in dispute before Us and our Council.

F

What hath been said in the Canvassing these two Instances, and what delivered before about the Kings Ordinary Court, may satisfie any Man concerning this Authors own Groundless Notion of *Curia Ordinaria*,

Ordinaria, and *Generale Concilium*, and are sufficient to discover his Ignorances, in that he hath cited Records and Histories, and given Instances directly against himself.

Rex Congregatis Episcopis, Comitibus, & Baronibus, Regni sui Parliamentum habuit & tractatum. This says our Author was manifestly more than the *Curia Regis*. True, it was manifestly a Common-Council of the Kingdom, as it was afterwards established by King John's Charter. Here was never a Free-holder, but such as held of the King in Military-Service; that is, *Tenents in Capite*.

P. 220.
Note Parliamentum for Colloquium.

King John says in one of his Charters, he came to the Crown, *Jure Hæreditario*, mediante tam Cleri quam populi, unanimi consensu & favore.

P. 221.
His Elder Brothers Son Arthur D. of Brittan was then living.

Congregatis Archiepiscopis, Episcopis, Comitibus & Baronibus & aliis omnibus. I shall add what the Gentleman hath left out, *qui hujus Coronationi interesse debuerant*; which relates to the *aliis omnibus*.

Paris, fol. 197.
(n) 20.
Ibid. p. 221.

I cannot see to what purpose he useth these Citations; however, for his satisfaction, the Reader may see how King John came to the Crown, in the Answer, f. 33. A. &c.

From London King John issues out Summons to William King of Scots, to attend him at Lincoln, which Summons he was obliged to obey as one of his *Tenents in Chief*; nor was it the place or time of the *Curia de More*, and therefore the *Curia* and General Council was united; the King of Scots coming as *Attendant* upon the *Curia*, *Convenerunt interea ad Colloquium apud Lincolniam, Rex Anglorum Johannes & Rex Scotorum Willielmus cum universa Nobilitate tam Cleri quam Populi utriusque Regni undecimo Kalendas Decembris.* As under the Nobility, the Senators of Scotland, were comprehended all the Freeholders at that time beyond Dispute, 'tis probable at least, that our Nobility was of the same Extent. And for the Probability of the Assembling of so great a Body as the Proprietors of both Kingdoms must have made even then, 'tis observable that the Meeting was without the Walls, for the City was not able to hold them. The King of Scots did Homage upon a Mountain, in Conspectu omnis populi, before all the People, the United Body of the Freeholders of both Kingdoms.

P. 222.

Mat. Paris, 196. so cited by our Author See the Answer to his Supplemental or last Argument, who were the Nobility and Freeholders of Scotland.

P. 223.

The words of *Mat. Paris*, from whence this Gentleman had the Story, are these: *Convenerunt ad Colloquium apud Lincolniam, Rex Anglorum Johannes & Rex Scotorum Willielmus, cum universa Nobilitate tam Cleri, quam Populi, utriusque Regni, Undecimo Kalendas Decembris, Et eodem die Convenerunt ipse & Rex Scotorum Extra Civitatem in Montem arduum, & ibi in Conspectu Omnis Populi, Willielmus Rex Scotie fecit Homagium Regi Johanni de omni Jure suo; & postea Juravit ei Fidelitatem, super Cratē Huberti Cantuariensis Archiepiscopi, de Vita & Membris, & honore terreno, Contra omnes homines, Coram Cunctis Magnatibus Regni.* John King of England, and William King of Scotland, met at a Conference at Lincoln with all the Nobility, as well of the Clergy as Laity, of both Kingdoms, upon the 21th of November; and the same day they met upon a steep Hill without the City, and there in the sight of all the People,

Fol. 204. n. 30
40th Anno Dom.
1205, 1. Feb.

See the Answer, f. 31. B. why in this place Populus is to be turned Laity, and in other parts of it.

People, *William* King of *Scotland* did Homage to King *John* for all his Right, and afterward swore Fealty to him upon the Cross of *Hubert* Archbishop of *Canterbury*, of Life and Limb, and Terrene Honor against all men, before all the Great Men of the Kingdom. This is all *Paris* hath of this Story.

And he hath it from *Hoveden*, and transcribes his words; yet *Hoveden's* Relation is more full and clear, and I therefore transcribe so much of it as is necessary, because he lived also, and wrote at the very time, and also because it will detect this Writers monstrous abusing of History.

*Hoved. f. 461.
b. lin. 4. & n. 10.
20. 30.*

That is the 21
of November.

Johannes Rex Angliæ statim post Coronationem suam misit Philippum Dunelmensem Episcopum, &c. John King of England, soon after his Coronation, sent Philip Bishop of Durham, Roger Bigot Earl of Norfolk, *Hen. de Bohun*, Earl of Hereford, *David* Earl of Huntingdon, the King of Scots Brother, Roger Lacy Constable of Chester, *William de Vescy*, Robert de Ross, and Rob. Fitz-Roger, Sheriff of Northumberland, to *William* King of Scots, with Letters of safe Conduct, to bring him to the King of England, and appointed him a day to meet him at *Lincoln*, in *Crastino Sancti Edmundi*; and then it follows within a few lines, *Undecimo Kalendas Decembris*, (which is the 21 of November) *feria tertia Johannes Rex Angliæ & Willielmus Rex Scotia Convenerunt apud Lincolniam, & in Crastino, viz. 10 Kal. Decemb. feria quarta Johannes Rex Angliæ intrepidus & contra consilium Multorum, intravit Ecclesiam Cathedralē Lincolniensem & obtulit super Altare Sancti Johannis Baptiste quod est in novo opere Calicem aureum. Deinde eodem Die ipse & Willielmus Rex Scotorum Convenerunt ad Colloquium extra Civitatem Lincolnie super Montem arduum, & ibi in conspectu omnis populi, Willielmus Rex Scotorum devenit homo Johannis Regis Angliæ de jure suo, & juravit fidelitatem super crucem Huberti Cantuariensis Archiepiscopi de vita & Membris, & terreno honore suo contra omnes homines, & de pace servanda sibi & Regno suo, salvo jure suo; Testibus hiis. Huberto Cantuariensi, Johanne Dubliniensi, Bernardo Ragnensi Archiepiscopis.* (This last Bernard, Archbishop of Raguse might probably be the Popes Legate) Eleven other English and Welsh Bishops, and the Bishop of St. Andrews in Scotland. Geoffrey Fitz-Peter, Earl of Essex, and Justiciary of England, eight other Earls, the Prince of Galway, Patrick Earl of Lonais, Griffin, Son to Rese, King of South-Wales, and many others of the Kingdom of Scotland, and before the Barons of England and Normandy, Roger Constable of Chester, Eustace de Vescy, and Robert de Ros, and fourteen others there named, & aliis multis de Baronibus Angliæ & Normannia; and many others of the Barons of England and Normandy. These Bishops, Earls and Barons, were those which *Paris* calls *Magnates Regni*, when he says this great Ceremony was performed before all the Great Men of the Kingdom. *Facto itaque homagio suo, Willielmus Rex Scotia petiit à Johanne Rege Angliæ Domino suo totam Northumbriam, & Cumbriam, & Westmerland sicut jus suum & hereditatem suam.* Of which King John took time to consider until *Whitsunday* following; all this was done on the tenth of the Calends of December, or the 22th of November, and the next Morning, (*in crastino summo mane viz. Nono Kal. Decembris*) *William* King of Scots returned into his own Country, under the Conduct

Ibid. n. 40.

Conduct of those that brought, or conducted him to the King of England.

Whoever consideratively reads either of these Relations, but especially this last of *Hoveaen*, cannot but wonder at the Confidence of this Writer, who pretends to find out both an ordinary Court, and General Council in this Assembly, which was only designed to attest, and see the Homage of the King of *Scots* done to the King of England, and to make it more notorious and conspicuous, which was the reason of the Circumstance of its being performed upon a steep Hill without the City, that the People might see it done and take the more notice of it. And that this was the only Business of this Meeting 'tis certain, because we find no Summons to it, nor other Matter transacted in it.

It is admirable how he finds out of the Relation of *Paris*, to which he confines himself (to use his own words) That under the Nobility of *Scotland* were comprehended all the Freeholders without dispute, and that 'tis probable, at least, that the Nobility of *England* was of the same Extent; That is, that all **Freeholders** were **Noblemen**. 'Tis marvelous how he finds the united Body of Freeholders of both Kingdoms at this meeting at *Lincoln*; Had it been safe for the Kingdom to have admitted so great numbers of Scots? How should the Nation have got rid of them? We had but a small parcel of the ordinary ones, about 34 or 35 years since, and we were forced to

Swear and Covenant with them, and give them a round Sum of Money to be gone. 'Tis mighty strange, that the English Noblemen, who went to conduct the King of *Scots*, should go thither, and that he and the Body of the Freeholders of his Kingdom, some whereof must come from the furthest part of *Scotland*, should come together in *Scotland*, when the days were almost at the shortest, and march from thence to *Lincoln* in 44 daystime; more they had not, for King *John* was Crowned at *Westminster* on the eighth of *October*, and it was after his Coronation he sent a Convoy for the King of Scots, with Letters of safe Conduct, and he came to *Lincoln* the 21 of *November*, which makes but 44 short days. All his Deductions from this Story are so far remote from Reason and Sense, that no Man but himself could ever have thought of them. These are his Coments upon, and this the Work he makes, with all the Fragments of Records and History he makes use of.

And then I take it (in the year 1204.) Provision was made for the Defence of the Kingdom, (viz.) That every nine Knights throughout the Kingdom should find a Tenth armed at all points to be ready in *Servitio nostro ad defensionem Regni quantum opus fuerit*. This to be sure, reach'd further than to the Knights, by Military Tenure, because every one that held a Knights Fee, was by his Tenure to find a Man, and consequently this would have weakened the Kingdom to abate of their Services, but it must needs have extended to all that held to the value of a Knights Fee, though not by Knights Service. This was provided Communi assensu Archiep. Ep. Com. Baronum & omnium fidelium nostrorum Angliæ. And so a general Land-Tax.

300000 l.

Ibid. fol. 461.
a. n. 40.

P. 225.

Nine Knights throughout the Kingdom to find a Tenth.

Rot. Pat. 6.
Johannis, M. 2.
Dorf.

Whether the nine Knights were Tenents in Military Service, or Freeholders in Soccage Tenure, that is, such as our Common Freeholders are at this day; or whether the Money the Tenth Knight was to receive for his Wages, was raised by a general Land-Tax, the Record it self will determine it; 'tis worth observing, and here Printed N. 2. This Record is here interpreted, at the common rate of this Writers Comenting.

In great Expeditions, a less number of Knights found one to do the Service at a Common Charge. *Rex Henricus magnam paravit Expeditionem, ita ut duo Milites de tota Anglia tertium invenirent, ad expugnandum Wallenses.* The King prepared a great Expedition into Wales, so as two Knights found a third.

Mat. Paris,
fol. 96. n. 50.
A. D. 1157.

P. 237.

Paris, fol. 913.
n. 40. Ann.
Dom. 1255
39 Hen. 3.

The Baronagium, or omnes fere Angliæ Magnates refused to give a Royal Aid demanded of them, the ground of their refusal is very remarkable. Quod omnes tunc temporis non fuerunt juxta tenorem Magnæ Chartæ suæ vocati. This some would render, and call King John's Charter, and that the Complaint was, that the Peers had not their particular Summons, according to the Tenor of that Charter. But it is Chartæ suæ, not Chartæ Regis Johannis Patris Regis nunc. 'Tis the then King Henry the Third's Charter.

King John's
Magna Charta
and K. Hen. 3.
the same.

King John's Charter, and King Henry the Third his Charter, will appear to be, and were the very same, notwithstanding his unintelligible Reasons to the contrary.

Fol. 321. n. 10,
201

They were
alike in all
things.

Mat. Paris relating the manner how, and upon what consideration King Henry the Third, in the Ninth of his Reign, Granted his Charters; tells us, that being Sealed with the Kings Seal, they were sent into all Counties of England, and that istarum tenor chartarum habetur expressius, ubi historia agitur de Rege Johanne; Ita quod Charta utroque Regum in nullo inveniuntur dissimiles. That is, the Tenor of those Charters may be found more expressly in the History of King John, so as the Charters of both Kings were not found to disagree in any thing: and it is no impropriety of Speech of the Barons, to say to King Henry, that King John's Charter was his Charter, when he had Granted it to them in the Ninth of his Reign, and confirmed it with dreadful Curses, according to the mode of those times, in the 37th of his Reign; for the same Historian relating this Solemn Confirmation of Magna Charta, says, *Rex bona fide, & sine aliqua cavillatione promisit se Magnam Chartam & omnes ejus articulos fideliter observaturum. Quam à multis retroactis annis, Pater ejus Rex Johannes tenere Juravit;* the King promised faithfully, without any Cavil, to observe Magna Charta and all its Articles, as his Father King John had done many years before.

Paris ut supra.
*So it is called
in this place,
if any stress
be to be laid
upon that
word.

This Confirmation was but two years before the Barons gave this Reason to King Henry, that they would not answer in * Parliament, or give any Aid, because their Peers were absent, not being called according to his Magna Charta. This single Instance is sufficient to prove, that the Common-Council of the Kingdom, mentioned in King John's Charter, was the General Council of the Kingdom; nor need I examine his Book further, if it were not to let his Readers see

A

B

C

D

E

F

see how he hath cheated them, and abused, and wrested the Records and Histories he hath cited.

Three years after this Answer, 42 *Hen.* 3. the Barons at Oxford require of him, the Confirmation of King *John's* Charter. *Ut Dominus Rex Chartam libertatum Angliæ quam Johannes Rex Pater ejus suis Anglis confecit, & confectam concessit.*

Ibid. fol. 970.
n. 50.

Quamque Idem Johannes tenere Juravit, fideliter teneat, & observet, quamque idem Rex Henricus multoties concesserat & tenere Juraverat, ejusque infractores, ab omnibus Angliæ Episcopis, in præsentia sua, & Totius Baronagii, horribiliter fecit Excommunicari, & ipse fuit unus Excommunicantium. Which Excommunication was performed in the 37th year of his Reign, but five years before.

Five years after that, in the 47th of *Henry* the Third, when the differences between himself and the Barons were referred to the King of *France*; he nulled the Provisions made at Oxford; but said, by that he intended not altogether to abrogate King *John's* Charter, and therefore the Earl of *Leicester*, *Sim. Montfort* would not acquiesce in the King of *France* his Judgment, because the Provisions of Oxford, as he said, were founded upon that Charter. Here is proof enough, that the Charters of King *John* and *Henry* the Third, were the very same.

Ibid. fol. 992.
n. 10.

The Great Charter commonly attributed to *Henry* the Third, and stiled his Charter in our Statute-Books, was properly the Charter of *Edward* the First, or perhaps rather his Explication or Inlargement of that Charter of King *John* and *Henry* the Third. For we find not the Great Charter, either of that, or King *John's* Form in any of the Rolls, until the 25th of *Edward* the First, and he had a greater Sum of Money for confirming this Charter than *Henry* the Third had, as 'tis Recorded in the Summons to Parliament for that purpose.

The Charter
of K. *Edw.* 1.

Rex Vic. Ebor. Salut. quia in Relevationem omnium incolarum & populi Regni nostri Pro octava omnium honorum singulorum laicorum per totum idem Regnum, pro urgentissima nunc dicti Regni contra Gallicos necessitate levanda, concessimus pro nobis & heredibus nostris, confirmare, & firmiter teneri facere Magnam Chartam de libertatibus Angliæ, & Chartam de libertatibus forest. &c. Tibi præcipimus firmiter injungentes, quod sine dilatione aliqua duos de probioribus & Legalioribus Militibus, &c. Eligi, & eos ad Edw. filium nostrum, &c. venire facias, &c.

Cl. 25 *Edw.* 1.
M. b. Dors. de
veniendo pro
confirmatione
Magna Charta.

In this Charter then confirmed, there is no Provision made for any Summons to Great Councils or Parliaments, and the reason may well be, because the Constitution of Great Councils or Parliaments was lately changed, from what it was in King *John's* time, and til the 49th of *Henry* the Third, nor perhaps was it so fixed, and peremptorily resolved on at this time, what it should exactly be for the future, as to have it made an Article of the Charter, and to this conjecture the frequent Variations of Summons to Parliament in those times, do give a probable Confirmation.

See the Records at the
end of the
Answer.

P. 244.

Page 244. This Writer cites a Record by parcels, and besides to make it more specious to serve his purpose, he leaves out the beginning and end of it. The whole Record is as followeth.

Rot. Cl. 38. H.
2. m. 7. & 12.
The Preamble
of the Writ.
All this is left
out by this
Writer.

Rex Vic. Bed. & Bucks, Salutem. Cum Comites & Barones & ceteri Magnates Regni nostri nobis firmiter promiserunt, Quod erunt London à Die Pasche proxim. futur. in tres septimanas cum Equis & Armis Parati, & bene Minuti ad tendendum sine Ulla Dilatione Versus Portsmouth, & transfretand. ad nos in Vasconiam Contra Regem Cast. ll. qui terram nostram Vasconia in Manu forti in estate proxima futura hostiliter est ingressurus.

King Henry's
seeming Writ
for two
Knights ex-
plained.

Et tibi precipimus quod omnes illos de Balliva tua qui Tenent. 20 Librate terre de nobis in Capite, vel de aliis qui sunt infra etatem, & in Custodia nostra ad idem distringas. Tibi Districte precipimus quod Præter omnes Predictos, venire facias Coram Concilio nostro apud Westmonasterium in Quindena Pasche proxime futur. Quatuor Legales & Discretos Milites de Comitatus predictis, quod iidem Comitatus ad hoc Eligerint, vice omnium & singulorum Eorundem; viz. Duos de uno Comitatu & duos de alio ad providendum una Cum Militibus aliorum Comitatum, quos ad eundem diem Vocari fecimus, Quale Auxilium nobis in tanta necessitate impendere voluerunt. Et tu ipse Militibus, & aliis de Comitatu predicto necessitatem nostram, & tamurgens negotium nostrum Diligenter Exponas & ad competens Auxilium Nobis ad præsens impendend. Efficaciter inducas. Ita quod præfati quatuor Milites Prefato Concilio nostro ad predictum terminum Pasche Respondere possint super predicto auxilio pro singulis Comitatus predictorum.

This is not
transcribed by
the Writer.

Firmiter etiam tibi precipimus, Quod omnia debita quæ nobis à retro sunt, in Balliva tua & solvi debuerint ad scaccarium nostrum ante Pasch. jam instans, habeas ad Idem scaccarium in Quindena predict. Pasche Scientes, quid nisi predicta debita tunc ibidem habueris, non Solum Corpus tuum arrestari faciemus, set debita illa de terris & tementis tuis levare faciemus ad Damnum tuum non modicum. Teste A. Regina & R. Com. Cornub. apud Windefore xi die Febr.

What he speaks to any purpose upon this Record, is by asking this Question, If the Tenents in chief made the Common Council of the Kingdom till the 49th of Henry the Third, and had a Power to Tax the rest of the Nation, de Alto & Basso ad Meram Voluntatem suam, Why this Summons for a Representative of the Counties?

I answer, The History of this time, and the occasion of this Writ, will give any reasonable Man satisfaction why they were summoned.

Paris in addi-
tam. fol. 189.
n. 50.
Hen. 3. wanted
Money in Gas-
coigne.

King Henry being at this time in Gascony, and in great distress for want of Money, he wrote to his Queen and his Brother Richard Earl of Cornwall, who had the Government of the Nation in his absence, to assemble the Archbishops, Bishops, Earls and Barons of the Kingdom of England, and to represent to them his Condition, and the intended Expedition of the King of Castile into Gascony against him; which they did about the latter end of January 1254. in the 38th year of his Reign; and did declare to them what he had directed

directed them. The Barons would part with no Money, as not believing the King of *Castile* would invade *Gascony*, and thinking that Relation but an Artifice to procure a Tax of them. They were drawn into that suspicion by the Insinuations of *Simon Montfort*, who not long before had resigned the Government of that Country to the King, who was indebted to him for it in a great Sum of Money. However, though they did not assist the King according to his Expectation, yet the Earls and Barons promised, that if the King of *Castile* did make War upon him, they would be at *London* three Weeks after *Easter*, ready to march to *Portsmouth*, and there take Ship, and come powerfully to his Assistance against him. Some of the Bishops also promised they would personally come to him with considerable force; and others of them and the Abbots to supply him with Money against the said King of *Castile*, if by force he attempted any thing against him.

Ibid. Hist. £887
n. 10.

Ibid. fol 863.
lin. 1.
Additam, f. 190
lin. 2.

This being the History, let us consider the Writ, which consists of three Parts, and the occasion of it.

The Design of
the Writ.

The first part of it is a Precept to the Sheriff of *Bedford* and *Buckingham* Shires, grounded upon the Earls and Barons promise to be at *London* three weeks after *Easter*, fit and prepared to march to *Portsmouth*, &c. To Summon all that held 20 l. per Annum Land of the King in *Capite*, (which was then a Knights Fee) to the same Service, and if need were to Distrein them.

The second part is a Precept to the same Sheriff, to cause to come before the King's Council at *Westminster* four Loyal and Discreet Knights, two for each Shire, such as should be chosen by it, to provide with the Knights of other Counties, what Aid they should afford the King in so great necessity.

This was not a Summons to a General Council; the King had tryed that before, without success. These Knights were neither summoned *ad Colloquium vel Tractatum*, (the usual words for Parliamentary Councils in those times) but to appear before the Kings Council fifteen days after *Easter*, six days before the Barons were to meet, (who had denyed the King an Aid) to inform them what voluntary Aid each particular County would give the King in his great necessity toward the Defence of *Gascoigne*, against the intended Invasion of the King of *Castile*.

Which Necessity and Business the Sheriffs themselves were diligently to declare to the Knights, and others of the County, and effectually to induce them to grant the King a present competent Aid, so as the Knights of each County might answer upon their appearance before the Kings Council at the day prefixed, what they would do concerning this Aid so required of them.

The third part also is a Command to the Sheriff to Levy and pay in all the King's Debts, under strictest Penalties, into his Exchequer by a certain day, a Clause not to be found in Parliament Writs,

The

The Date of this Writ is likewise to be observed, *Febr. xi.* in the 38th of this King, not many days after the breaking up of the General Council of the Archbishops, Bishops, Abbots, Priors, Earls and Barons, that met either *Jan. 27.* or *29.* this very year, and denyed the King Aid.

Cl. 38 Hen. 3.
m. 7. Dorſe.
The like Writ
directed to Bi-
shops, &c. for
a voluntary
Aid.

The like Writ, and the ſame Date, *Febr. xi.* at *Windſor*, and the ſame *Teſte* was directed to the Archbiſhop and Biſhops in their ſeveral Dioceſſes, to ſummon their Chapters, Archdeacons, Clergy, and the Religious Perſons in their reſpective Dioceſſes before them, and to excite them to a voluntary and liberal Contribution, to ſupply and relieve the King's Neceſſities for the Defence of *Gascoigne*, againſt the deſigned Invaſion of the King of *Caſtile*.

A

Ibid. in eodem
B. cvi.

And the manner and quantity of their Aids, and the Sums they would contribute in this Neceſſity, were required to be certified from every Biſhoprick and Diocels to the Kings Council at *Weſtminſter*, by certain diſcreet men, fifteen days after *Eaſter*, the ſame time the two Knights for every County were to appear before the ſaid Council: Every Biſhop with the Clergy and Religious in every diſtinct Dioceſs, being to meet and act herein apart by themſelves, and were not ſummoned to meet all together, to adviſe and reſolve of this Aid requested of them.

B

This Reſolves our Writers Queſtion, Why two Knights were choſen in every County, and cauſed to appear before the Kings Council.

C

P. 248.

'Tis to be obſerved, and cannot be denied by any Antiquary, that Freeholders, and they that came from the Counties as the Representatives of ſuch, had the Appellation of Magnates.

It's very true, that in our antient Parliament-Rolls, the Knights of Shires are ſometimes called *Grantz des Counties*, or Great Men of the Counties; and well they might, for without doubt they were moſt commonly the greateſt *Tenents in Capite*, under the degree of great Barons in each County, which were choſen by the Military *Tenents*, to repreſent the *omnes alios qui de Rege tenebant in Capite*, mentioned in King *John's* Charter, or them and all other Military *Tenents* by mean Tenure: for 'tis ſcarce to be believed, that thoſe Men, the *Tenents in Capite*, which made ſuch a noiſe for their Liberties, would part with this main Point, of being perſonally preſent, or the Body of them repreſented by ſome of their own number in every County; and it may be upon this account they had the Title of *Notable Knights, &c.* in the antient Writs of Summons directed to the Sheriffs.

D

E

P. 248.

In this 248 Page he cites a Record, *Rot. Pat. 37. H. 3. M. 12.* but indeed *M. 13.* Dorſ. but mangles it, and only takes out of it what words he thinks will ſeduce unwary Readers to have ſome good opinion of his fancy: *Rex Anglia, R. Comes Norfolc, &c. Caterique Magnates Anglia, conſented to the Excommunication of all the Violators of the great Charter, &c.* The Record goes on, he ſays, *Et Communitas Populi proteſtantur publice in preſentia Arch. Cant. necnon & Episcoporum omnium in eodem Colloquio Exiſtentium.*

F

P. 248.

In

In cujus rei Testimonium, & in posterum veritatis Testimonium tam Dominus Rex quam predicti Comites ad instantiam Magnatum & Populi presentium, scripto sigilla sua apposuerunt.

Ibid. m.

Here (saith our Writer) the *Communitas Populi*, were the *Communitas Civitatum & Burgorum* (high Confidence) for the rest were *Magnates*, the King and some Earls subscribed at the desire of the rest.

Ibidem.

See this Record examined, and the meaning of it fully cleared in the Answer, F. 73. A. &c.

Ibidem.

Our Writer tells us of *Vetus Feoffamentum*, and *Novum*; and says the old Feoffment was of such Fees as were granted from the Crown, and that the *Novum Feoffamentum* was of such Fees as were granted by the Tenents in Capite to others by Sub-Infeodations, or such as the Tenents in Knights Service held by mean Tenure. The Fees of the first, or old Feoffment were all, the Tenents in Capite were answerable for when any Tax was charged upon them; and for the Fees de *Novo Feoffamento*, or which were holden by mean Tenure, or Sub-Infeodation, they could not be charged without the consent of the mean Tenents themselves, or Sub-Fendataries.

P. 236. &c.
to p. 241.

Upon this Notion he makes a long Discourse, and thinks he hath obtained so much as thereby to prove, that these mean Tenents in Military Services were not Taxed without their own consent, and therefore there were more than the *Tenents in Capite* in the Common Council of the Kingdom.

To destroy this Notion, I shall shew, first, the meaning of the words *Vetus* and *Novum Feoffamentum*, and then the matter of Fact in this case.

Sir Edward Coke says, *Feoffment* is derived from a French word of Art *Feodum*, quia est *Donatio Feodi*, for the antient Writers of the Law, called a *Feoffment Donatio*, of the word *do* or *ædi*, which is the aptest word of *Feoffment*. I shall not examine whether *Feodum* was a French word of Art, but take Sir Edward Coke's meaning, that *Feoffment* was the Gift of a Fee; the word is properly derived from the French word *Fiefment*, which signifies infeoffing, or giving of a Fee, and that from the word *Fief*, a Fee.

First Instit.
fol. 9. a.

In the Writings of the Feudists we find *Vetus Feudum & Novum*. *Vetus Feudum est, Quod à superiore, hoc est à Predecessore presentis Domini Constitutum est, vel Predecessori Vassalli Concessum. Semper enim antiquum Feudum, de Successore Dicitur, Novum autem Quod & ab eo Domino, & ei Vassallo, de quibus agitur Constitutum est: i. e.*

Hottom. de
Feud. Disput.
c. 6. Col. 819. B.

Vetus & Novum Feoffament. what they were.

An old Fee is that which was given by the Predecessor of the present Lord, or which was granted to the Predecessor of the Vassal. For always an old Fee is called so, in respect it hath descended, or gone in Succession: But a new Fee is that which is given by the present Lord to the present Vassal, of whom we are speaking.

In

bid. in Lib. 2.
Feud. Tit. 3.
sect.

In another place, *Novum Feudum appellatur, quod ei de quo agitur attributum est; Vetus vero quod ejus Parentibus vel Majoribus.* That is called a New Fee which was given to the present Feudatary; and that is called an Old One, which was given to his Parents or Ancestors.

And hence it was, that according to the King's Writs issued to that purpose, that Tenents in *Capite* did certifie into the Exchequer by Charts under Seal, how many Knights Fees they had *de Veteri & Novo Feoffamento*, that the Court might know whether they had more or fewer Knights Fees than their Predecessors, and so to charge them accordingly, and that they might perform their Homage and Ligeance to the King.

According to this understanding of *Novum & Vetus Feodum* by the *Feudists*, though not in the strictest sense, we have many Instances in every County of *England* of Knights or Soldiers of the Old and New Feoffment in the time of *Henry* the Second, in their Charts or Certificates under Seal, how many Knights Fees, or how many infeoffed Knights they had of Old or New Feoffments, and how many they stood charged for upon their Demains, or Lands which they held in their own hands, and upon which they had no Knights by Feoffment. I will give one Instance that *Vetus* and *Novum Feoffamentum* were only to be understood in respect to former or later time, and not in respect to Feudataries or Persons, or the Feoffments themselves.

S A L O P S C R.

Carta Rob. de Brimton.

A

Charissimo Dom. suo Legio H. Reg. Angl. &c. suus homo Legius Rob. de Brimton Salutem, Et fidele Servitium; michi & aliis Comparibus meis per literas vestras innotuistis, ut per fidem & Ligantiam quam vobis debemus, vobis per Breve nostrum pendens extra Sigillum, Mandarem quot Milites haberemus de Veteri Feodamento ac tempore Hen. Regis avi vestri, & quot Milites habeamus de Robo Feodamento post tempus Regis Hen. avi vestri, & quot Milites habeamus super Dominium nostrum. Inde est quod vobis ut Domino meo Charissimo, Mando, Quod de veteri Feodamento nullum Militem habeo prater Feodum unius, quem michi cum quadam liberali Muliere nomine Eva que modo est heres per Servitium unius Militis dedistis, faciendo Servitium ad Custum vestrum, de Robo autem Feodamento nullum habeo Militem vel super Dominium Meum, & vobis quidem, & filio vestro Dominium feci, & Ligantiam.

Red Book in the Exchequer, Tit. as here noted.

B

C

The same Certificate of the same Person is to be found in the same Book, Tit. *Srafiozscr.* of one Knights Fee there. There are several of this Tenor, or the like nature Printed at the end of these Animadversions.

D

And this Description of *Vetus & Novum Feoffamentum*, is fully confirmed by the Record he hath produced to settle his Notion: but according to his constant practice, he recites only as much of this Record as in his own Judgment he thinks fits his purpose, and conceals the rest.

P. 239, 240.

E

Rex Vicecomiti Somerset Salutem, Scias quod Comites & Barones, & omnes alii de toto Regno nostro Angl. Spontanea voluntate sua, & sine Consuet. Concesserunt nobis Efficax Auxilium ad magna negotia nostra Expediend. Unde provisum est de Consilio illorum quod habeamus de singulis Feodis Militum que de nobis tenent in Capite & de Wardis, tam de Robo Feoffamento quam de veteri, duas Marcas.

Claus 19. H. 3. M. 6. Derf.

Thus much and no more of this Record is quoted by this Writer; the other part follows.

F

Ad Auxilium prædictum nobis faciendum, unde providerunt reddere nobis unam Medietatem ad Festum Sancti Michaelis anno decimo nono, & aliam Medietatem ad Pascha, anno, &c. 20. Providerunt etiam, quod prædictum Scutagium Colligatur per Manus Ballivorum suorum in singulis Comitatus, & tradatur per Manus eorundem, Duobus Militibus, Quos ad hoc assignavimus in singulis Comitatus deferend. ad scaccarium nostrum Lond. & liberand. ibidem Thes. & Camerariis nostris, & ideo Tibi præcipimus Quod ad Mandatum omnium Comitum & Baronum & omnium aliorum, Qui de nobis Tenent in Capite in Balliva præ-

dicta modo prædicto sine Dilatione Distringas omnes **Militēs & Libere Tenentes** qui de eis Tenent per **Servitium Militare** in Balliva tua ad reddendum Ballivis tuis de **Singulis Feodis & Wardis Duas Marcas** ad prædictum **Auxilium** nobis **Faciendum** in **Terminis prædictis**, & liberandum *Johanni de Aure, è Hen. de Meriet quos ad hoc assignavimus in Comitatu tuo sicut prædictum est, &c. Teste meipso apud Westm. xvii Julii, anno, &c. xix.*

Who were charged in this Writ two Marks for every Knights Fee that was holden *in Capite*, as well of the **New Feoffment** as of the **Old**, but the *Tenents in Capite*? To whom is the **Novum Feoffamentum** in this Writ affixed but the *Tenents in Capite*?

Who gathered this Tax but the Earls, Barons, and *Tenents in Capite* by their Bayliffs?

Who were to be Distreined by virtue of this Writ, to pay two Marks for every Fee at the command of the Earls, Barons, and *Tenents in Capite*, but their Sub-Feudataries and Under-Tenents, the *Militēs & Libere Tenentes de eis per Servitium Militare*, Knights and Freeholders, which held of them by Military Service?

Who were the *Omnes alii de Regno* besides the Earls and Barons that granted this Tax, but the *Omnes alii qui de nobis Tenent in Capite*, (mentioned in that part of the Writ he hath concealed) at whose Command the Sheriff was by the Kings Precept to Distrein their Under-Tenents?

This is evident beyond contradiction by another Writ to the Sheriff of *Sussex* about the very same Tax.

Cl. 19 Hen. 3.
M. 8. Dors.

Rex Vicecom. Sussex Salutem, Scias, Quod Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, & omnes alii de Regno nostro Angl. qui de nobis Tenent in Capite Spontanea voluntate sua & sine Consuetudine, Concesserunt nobis Efficax Auxilium ad Magna negotia nostra Expedienda. Unde provisum est de Consilio illorum, Quod habeamus de singulis Feodis Militum & Wardis, que de nobis Tenent in Capite duas Marcas, ad prædictum Auxilium nobis faciendum, & unde providerint reddere nobis unam medietatem ante Festum Sancti Michaelis, Anno Regni 19. & aliam Medietatem ad Pasche Anno Regni nostri 20. Ideo tibi præcipimus quod ad (a) Mandatum venerabilis Patris R. Cicestr. Episcopi Cancellarii nostri sine Dilatione Distringas omnes Militēs & Libere Tenentes, Qui de eo Tenent per Servitium Militare in Balliva tua ad reddendum ei de singulis Feodis & Wardis Duas Marcas ad prædictum Auxilium nobis per manum suam reddendum in Terminis Prædictis.

(a) He was to give this command as a Baron, not as Chancellor, as is evident by the foregoing Writ.

Sic scribitur pro aliis Episcopis, Abbatibus, Prioribus & Magnatibus.

Who but this Writer and another Gentleman that lent him the Notion, will pretend to prove from these Records, that **Novum Feoffamentum** was nothing else but a Sub-Infeudation of Under or Mean Tenents in Military Service, by the *Tenents in Capite*? or that these Sub-Feudataries, or Tenents, ever fate and voted in the Common Council

Council of the Kingdom, and consented to these other Taxes? If I understand any thing, I think they prove the contrary.

Thus much of Scutage, as it was an Aid or Tax imposed by common consent of the Kingdom. There was another Scutage which we may call Scutage Service; that is, Scutage which was paid by *Tenents in Capite*, when they went not out in any Expedition according to Summons, or staid at home by leave obtained of the King, in this case they paid Scutage according to the Duration of the Expedition, or as they could agree with the King. This was due to him by Custom, without Consent of the Common Council of the Kingdom, especially if he himself went in the Expedition.

And besides this, there was Scutage-Service due to the *Tenents in Capite*, from their Sub-Feudataries, or Under-Tenents if they were not with them when they served the King in Person; and this was levied only upon the King's Grant, and by his Writ, without any consent whatever: for this see the Answer, F. 117. A & C. and it is further confirmed by the following Records.

Rex Vic. Northampt. Salutem, Scias, Quod Concessimus Dilecto & Fideli avunculo nostro W. Com. Surr. quod habeat Scutagium suum de Militibus suis qui de eo Tenent in Bullida tua pro exercitu nostro Wallie in quo nunc est per preceptum nostrum Scilicet de Scuto duas Marcas, & ideo tibi præcipimus quod prædictum Scutagium ei habere facias ut prædictum est. T. R. &c. apud Winton, 19 die Aug.

Eodem modo scribitur Vic. Middles. Lincol. Oxon, Wilts, Dorset. Somers.

Eodem modo scribitur pro Hamone Peche Vic. Cantabr. Norff. Suff. Lincol. Essex, Salop, Berks.

Eodem modo scribitur pro N. de Bello Campo de Scutag. habendi Vic. Middles. Rotel. Hertford, Surr. Bedf. Bucks, Hunting. Berks; and for above thirty more Barons, and Tenents in Capite, in that Membrane and Roll.

There is in *Mat. Paris* a Relation of the Siege of Bedford-Castle, in the next year, the Eighth of this King, 1224. that clears the meaning of these Records beyond all doubt.

In Octavis Sanctæ Trinitatis Rex cum Archiepiscopis, Episcopis, Comit. Baronibus, & (a) aliis Multis Convenerunt ad Colloquium apud Northampt. de Regni Negotiis Tractaturi.

Sitting this Parliament or Colloquium, news was brought the King, that the Garison in Bedford Castle, had issued out as far as Dunstable, and taken Hen. de Braybroke, one of his Itinerant Justices, which was there hearing Causes, and carried him Prisoner into the Castle. *Quæsit Rex Consilium à clero simul & * populo.* The King asked Advice of the Clergy and Laity what he should do, They all with one consent advised him immediately to lay aside all business, and march towards the Castle with sufficient force, and they all accompanied him; being come thither, the King demands the Castle, and his

Scutage-Service.

Cl. 7. Hen. 3.
M. 14. Dorset
Anno Domini
1223.

Ibidem.

Ibidem.

(a) The *alii multi* here were the Abbats, Priors, and *alii qui de nobis Tenent in Capite, &c.* Paris, fol. 320. n. 20. Ibid. n. 40. * See *Laici* below.

Ibid. 321. 30.

Justiciary *Hen. de Braybroke*, the Governor and Soldiers deny the King entrance into it, nor would they deliver the Justiciary: After some time the King forced the Castle, by the Assistance of the Earls, Barons, and *Tenents in Capite*, which were at this Colloquium; and then,

Ibid. 322.
lin. 3.
Populus & Laici the same.
Ibid. lin. 5.

Regi pro maximis laboribus suis & Expensis, tam à Prelatis quam à Laicis concessum est per totam Angliam Carucagium, de qualibet Caruca duo solidi Argenti, Magnatibus item Rex concessit, Scutagium, viz. de quolibet Scuto duas Marcas sterlingorum, & sic omnes ad propria recesserunt.

A

The Prelates or Clergy and Laity granted to the King for his great Labour and Expences Carucage through all England of every Plough-land two Shillings of Silver.

B

* To be paid by their Tenents in Military Service.

And the King also granted to the * Great Men *Scutage*, viz. of every Knights Fee two Marks Sterling, and so they all departed home; this fully explains the last Records.

P. 242.
Rot. Cl. 16.
Hen. 3. m. 2.
Dors.

A Fortieth of their Moveables is Granted by the Archiepiscopi, Episcopi, Abbates, Priores, & Clerici terras habentes quæ ad Ecclesias suas non pertinent, Comites, Barones, Liberi Homines & villani de Regno nostro.

C

Ibid. P. 242.
* The word used in the Record, is *Auxilium*.

So that 'tis plain here who made the Common Council of the Kingdom, and gave the * *Subsidies*. The Archbishops, Bishops, Abbats, Priors, inferior Landed Clergy-men, the Counts, Barons, Knights, Freemen, it being a Grant of Goods not laid upon Land; and that it may fully express the Parties to the Grant, the Record tells us there were the *Villani*, the Inhabitants of every *Villa*.

D

The *Clerici terras habentes, quæ ad Ecclesias suas non pertinent*. He calls inferior Landed Clergy-men: 'tis more than he can make out; They were such Clerks as had Manners, and Free or Military Fees belonging to their Benefices, that held of the King *in Capite*, the Fee whereof was in the Crown, and not in the Church, and therefore did not belong to it; and these came as *Tenents in Capite*.

Fol. 377. n. 50.

But *Mat. Paris* tells us they were *Episcopi & aliarum Ecclesiarum Prelati*; Dignified Clergy-men that gave this Tax, his words are concerning this very Council. *Apud Lambeiam Exaltatione Sanctæ Crucis, ad Colloquium coram Rege convenerunt Episcopi & aliarum Ecclesiarum Prelati cum Proceribus Regni, concessa est Regi Quadragesima pars Mobilium.*

E

See *Liberi Homines* in the Glossary.

What the *Liberi Homines*, or Freemen were in this Record, we may easily guess from the other two Records of 19 *Hen. 3. viz.* Such of those *Omnes alii de Regno qui de nobis Tenent in Capite*, which were not *Milites*, in a strict sense, nor had receiv'd the Order of Knighthood; and the probability of this will seem greater when we come to the Record next cited by him about this very Matter.

F

The

The only Question will be about the **Villani**, and if they will not pass for the Inhabitants of such **Villa's** as held of the King in *Capite*, such as might be the Burgesses of *St. Albans*, and other *Burgi Dominici Regis*, which are called *Villa's* in the Records; Then we must apply our selves to his next Record, which he cites, concerning a Tax of the thirtieth part laid upon Goods and Moveables about five years after.

Rex Vic. Kanc. Salutem, Scias quod cum in octavis Sancti Hillarii anno, &c. xxi. ad mandatum nostrum convenirent apud Westm. Archiepiscopi, Episcopi, Abbates, Priores, Com. & Barones totius Regni nostri, ut Tractatum haberent nobiscum de statu nostro & Regni nostri idem Archiepiscopi, Episcopi, Abbates, Priores & Clerici Terras habentes qua ad Ecclesias suas non pertinent, Comites, Barones, Milites & Liberi Homines pro se & suis Villanis nobis concesserunt in auxilium tricessimam partem omnium Mobilium suorum, &c.

P. 243.
Cl. 21. H. 3.
m. 7. Dorf.

Tenents in Capite granted for their Villanes.

From this Record we may observe, First, that the Kings Writ only issued to the Archbishops, Bishops, Abbats, Priors, Earls and Barons of the whole Kingdom.

Secondly, That in the Granting of this Tax, the Sheriff is told in the first place, that the Archbishops, Bishops, Abbats, Priors, and the Clerks which had Lands that belonged not to their Churches, (a certain sign they Granted by themselves, and of nothing else) and then, that the Earls, Barons, Knights, and Freemen, for themselves and **Villanes**, a thirtieth part of all their Moveables.

From this Record 'tis manifest, the *Liberi Homines* had **Villanes**, if not **Bondmen**, *Villagers* or *Rusticks*, *Coloni* or *Husbandmen* at least; of whose Estates by publick Assent, and for publick Benefit they might in part dispose of, which *Liberi Homines*, according to the Tenor of all Records and History, were *Tenents in Capite*; and that the **Villanes** mentioned in the other Records, 16 *Hen. 3.* to have given a fortieth part of their Moveables, did Grant it by their Lords, that is, their Lords Paramount, that were *Tenents in Capite*, did Grant it for them, although they held it not immediately of them, but of other *Tenents in Military Service*, which immediately held of the *Tenents in Capite*, who did charge them by publick Taxes, as hath been shewn from Records, and consequently all under them.

It was frequent in these times, to signifie to the Sheriffs, and to declare in the same Grants, that such and such had granted a Tax (*Concesserunt*) that is by those then that had Power and Authority to do it for them, and without their consent too, when they themselves for whom they granted, were not capable by our Writers own Confession and manifest Reason, of being Members of the Common-Council of the Kingdom, as Tradesmen, Servants, Bondmen, or Villanes, Women, Monyed-Men that had no Freehold Estates.

'Tis said in *Pat. 15 Hen. 3. m. 3.* That the Abbats, Abbesses, Priors and Prioresse, which held of the King in *Capite*, *Concesserunt*, the word used in the Records, cited for the Grant of Villanes, and yet I believe the Writer will not say, that Women since the Conquest

Conquest at least, were Members of the Common-Councils of the Kingdom.

Rot. Pat. 48.
H. 3. m. 2.
n. 5.

Venerabilis Pater G. Eborac. Archiep. Angliæ Primas & alii Prelati, Mignates, Libere Tenentes, & omnes alii de Regno nostro servitium fecerunt, & subsidium, ultra quam temporibus retroactis in aliis submo-
nititionibus exercitus nostri facere consueverunt.

It seems by this Record, that all Men of the Nation were bound to the Service and Subsidy therein mentioned; but I believe no Man of Sense will understand it so.

It is said in the Confirmation of **Magna Charta**, 28 of Edw. 1. That *Omnes de Regno nostro dederunt nobis, Quintodecimam partem omnium Mobilium suorum.* All Men of the Kingdom gave a Fifteenth of all their Moveables: Can any man believe, that all the Men of England were there in the Colloquium, when Henry the Third re-granted King John's Charter? or that all Men of the Kingdom met to choose their Representatives? All the men of England are not personally present in this great Assembly at this day, nor do the tenth part of them meet to choose their Representatives.

Pat. 7. E. 2. p. 1. m. 3. cedula

Rex Militibus Liberis Hominibus & toti Communitati Com. Mid. tam infra libertates quam extra salutem. Cum Comites, Barones, Milites, Liberi Homines, ac Communitates Comitatum Regni nostri vicissimam omnium bonorum suorum mobilium. Civesque & Burgenses ac Communitates omnium Civitatum & Burgorum ejusdem Regni quintam decimam bonorum suorum mobilium nobis curialiter concefferint & gratanter, &c. T. R. apud Westm. vicessimo octavo die Novembr.

The like Writ in the same words was directed *Civibus, probis Hominibus, & Toti Comunitati Civitatis London, T. R. apud Dover xv. Die Decembris.*

This was a Parliament, as at this day, consisting of the Lords Spiritual and Temporal, and Commons; that is, of Knights of Shires, Citizens and Burgeses, and no others, and yet here 'tis said, that the *Liberi Homines*, the *Tenents in Capite*, and the Community, or Body of all the Counties of the Kingdom, and the Citizens and Burgeses, and Communities of the Cities and Burghs gave a fifteenth of all their Moveables; will any man think or believe, that the Body of every County, besides the Knights of Shires, and the Community or Body of every City and Burgh in England, besides the Citizens and Burgeses that served for them in this Parliament, were present there, and granted for themselves? where should this incredible vast number of People meet? who should be their Speaker, and collect their Votes? the word in the Record is **Concefferunt**, which answers to them all, and yet no body can suppose them all present, though 'tis said in the Record, they all granted this Tax.

There

There can then be no other sense put upon the words, *Uillani concesserunt*, than that they granted by their Lords, the *Tenents in Capite*, if it will not be admitted that they were the *Uillani* or Inhabitants of those *Villa's* or Burghs that held of the King in *Capite*.

In Page 243. Our Writer cites part of a French Record out of the Pat. Roll. 24 Hen. 3. when there is no Patent Roll that year, and glosseth upon it as followeth.

P. 243.

This agrees with what was done afterwards, in the 42 of this King, and it seems by this, that even in the 24. *par le Commune de nostre Royaume*; By the whole Realm, or great Council, the King had a special Council assigned, which was to have an extraordinary Power.

P. 243.

He is very free to take notice of what was done in the 42 of Hen. 3. and to that end cites two Records, 42 Hen. 3. m. 3, and 4. the last is a French Record, of which there hath been occasion to speak before in these Animadversions, and the tendency and design of the other may be seen in the Answer, p. 199, &c. they both relate to the Oxford Provisions there specified.

P. 244.

Page 248, 249. Our Writers cites this Passage in Camden's *Britannia*, Fol. 122. *Ad summum Honorem pervenit*, speaking of the word *Baro*. *Ex quo Rex Henricus ex tanta multitudine, quæ seditiosa & Turbulenta fuit, optimos quosque Rescripto ad Comitua Parliamentaria evocaverit, ille enim (ex satis antiquo Authore loquor) post magnas perturbationes, & enormes vexationes inter ipsum Regem, & Simonem de Monte-forti, & alios Barones motas, & sopitas, Statuit, & ordinabit, quod omnes illi Comites, & Barones, Regni Angliæ, quibus ipse Rex dignatus est Brevia sumonitionis dirigere, venirent ad Parliamentum suum & non alii, nisi forte Dominus Rex alia illa Brevia dirigere voluisset.*

P. 149.

The substance of this is, saith our Writer, that the word *Baro* was applicable to the whole People, the Body of Freeholders, especially such as assembled in Parlement, till the King conferred particular Honor upon some, by his special Writs of Summons, and none other came, but in pursuance of the *alia illa Brevia*, that is, the Writs for Elections in Counties, Cities, and Burghs.

The Learned Camden, while he is taking notice of the various acceptation of the word *Baro*, says, *In Chartis & Historiis ejus sæculi omnes fere Nobiles dicantur Barones, plenaque Honoris Appellatio illa sane tunc erat, & nomine Baronagii Angliæ, omnes Superiores quodammodo Regni ordines, scilicet Duces, Marchiones, Comites & Barones continebantur.* This our Writer left out, lest it should have turned the Substance he gives, of what he cited, *viz.* That the word *Baro* was applicable to the whole People, the Body of the Freeholders, into a shadow; what man, that designed not Sedition, or was not confident beyond belief, could have made such a Gloss upon those words in Camden which follow, and are the very next to these last noted. *Sed ad summum Honorem pervenit, ex quo Henricus tertius, ex tanta multitudine, quæ seditiosa & turbulenta fuit, optimos quosque Rescripto ad Comitua Parliamentaria evocaverit, ille*

enim

enim (ex satis antiquo scriptore loquor) post magnas perturbationes, & enormes vexationes, inter ipsum Regem & Simonem de Monteforti & alios Barones, motas & sopitas, statuit & ordinavit, quod omnes illi Comites & Barones Regni Anglia quibus ipse Rex dignatus est Brevia summonitionis dirigere venirent ad Parliamentum suum, & non alii: nisi forte Dominus Rex alia illa Brevia eis dirigere voluisset.

The word *Eis* he hath left out, which discovers to whom these Writs were to be directed.

That is, in the Charters and Histories of those times, almost all the Noblemen were called **Barons**; and it was then an Appellation full of Honor, or a name of great Extent: and under the name of **Baronage of England**, all **Superior Orders** as it were of the Kingdom; that is to say, **Dukes, Marquesses, Earls and Barons** were contained. But it became a word of **Highest Honor**, since *Henry* the Third out of so great a Multitude, which was **Seditious and Turbulent**, called the **Chiefest** or **Greatest** of them, by his **Writ** to Parliament: For he, (I speak it out of a Writer ancient enough, says *Camden*) after great Troubles and enormous Vexations, raised between the King, *Simon Montfort*, and other **Barons**, when they were overcome and quieted; appointed and ordained, that all those **Earls and Barons** of the Kingdom of *England*, to whom he thought fit to direct Writs of Summons, should come to his Parlement, and no others; unless by **chance** the King would direct other such Writs to them. That is **Writs** of the like Form and Tenor.

And the Practice was then, and hath been ever since, accordingly; the King only calling the great Barons, to sit as Barons by his Writ, (though in those times probably, the King might omit to Summon whom he would) and if at any time he called any others by those his *Alia illa Brevia*, his such other Writs as had been directed to the Earls and great Barons, they were *pares Baronum*, the *autres Grands & Nobiles*, the **Proceres & Magnates**, besides the Earls and Barons mentioned in the Writs of Summons to Parlement, 18 Ed. 1. 22 Ed. 1. M. 6. Dorf. 28 Ed. 1. M. 3. Dorf. here Printed at the end of the Answer to Mr. *Petit*, and in many other places in the old Parlement Rolls and Summons in the Reigns of *Edward* the Second and Third; and though some of them were often summoned, and their Heirs after them, yet were they no Barons, the Writs of Summons not making them such, according to the Vulgar Error. Nor can any man but an Ignorant Selfconceited Scribler, think or Fancy, that the *Alia illa Brevia*, the other same Writs were directed of course to any County, Cities or Burghs at that time, or according to the meaning of this Relation, for Mr. *Camden*'s Author says, *Nisi forte Dominus Rex Alia illa Brevia*, unless casually or by chance, or sometimes, other of them same very Writs, and of the same Form, which had issued to the **Earls and Barons**, were directed to any others. And to make it clear, without contradiction, those *Alia illa Brevia*, which were directed to the Noblemen were of a different Form, those for electing of Knights, Citizens and Burgesses, which were always directed to the Sheriffs of Counties, not *Eis* (which word is left out by this Writer) to the **Parties** themselves.

The substance of this is, That the word Baro was applicable to the whole People, the Body of Freeholders especially, as Assembled in Parliament, till the King conferred particular Honor upon some, by his Especial Writs of Summons, and none other came, but in the pursuance of the *alia illa Brevia*, that is the Writs for Election in Counties; Cities and Boroughs, this was begun to prevent those Tumults, of which both the King and the Barons had fatal Experience.

P. 249.

A The Probi Homines, or Bonæ Conversationis, came sometimes in their own Persons; and when they agreed to it, which was no Abridgement of their Personal Right, they came by Representation Ex Electione, and every one was there himself virtually, by his Deputy, but they often met in vast Bodies, and in Capacious Places, both in the Saxons Times, and after William the first obtained the Imperial Crown.

P. 264.

B This is precariously said without any Foundation or Authority; yet he seems to back it with an Instance.

The whole Body of Proprietors, he says, were assembled at Runemede between Stanes and Windsor, at the passing of King John's Charter.

Ibid. P. 264.

C What this Assembly was, and of whom it consisted, see the Answer, f. 71. E. f. 72. A.

Anselm, in one of his Disputes with Henry the First, desires the Debate may be adjourned till the Easter following. He comes to the Court at Easter; Igitur in Pascha Curiam venit, regni ingenuitatem præfens Consulit. Communis Concilii vocem accepit, &c.

P. 265.
Eadmer Hist.
Nov. fol. 70.

D Here the Council Episcoporum & Primatum, to which he referred himself, was reciprocal with the Ingenuitas Regni; that is, as Sir Henry Spelman shews us, the Liberi & Legales Homines, The good honest Freeholders, some of which were no better than Plebeians.

Ibid. P. 265.

E Sir Henry Spelman is not very Elaborate in Expounding the word Ingenuus, and says that some Moderns have used to express our Yeomen and Plebeians by it; but whether properly, or like Latinists, he did not know.

F The word amongst the Romans signified the same as Free-born amongst us. Hottoman says, that Ingenui were the same that Patritii, who were no common ordinary Men. And Calvin, Ingenuus est cui ex Nativitate Competit Libertas, qui non est factus Liber, sed Natus. Erat igitur Ingenuus quem nos hodie gentilem vocamus, Gentiles sunt qui inter se eodem nomine sunt, Quorum Majorum nemo servitutem servivit, qui Capite non sunt Diminuti, ut Brutii, ut Scipiones. And so proceeds from the Authority of Cicero, Pliny, Budæus, Boetius, Livy, and others, to make them Nobiles.

Lexic. Jurid.

And in this sense or the like, his Author Eadmer more than once useth this word. King Henry the First wrote to Anselm to respite the Consecration of Thomas Archbishop Elect of York for some time; and said, he himself when he came into England, would compose all

Eadmer, f. 101.
lin. 49.

Differences between them relating to the Consecration. *Anselm* sends the Dean of *Chichester*, and a Monk of the Abby of *Bec.* into *Normandy* to the King, to acquaint him with the State of the present Difference between them, and to beseech him, *Quatenus sua Auctoritatis Ingenuitate, & provisione satageret, ne Integritas Christianitatis in duo Divisa scinderetur in Anglia.*

Certainly *Auctoritatis Ingenuitas* doth not here signifie a *Plebeian* or ordinary Authority, but a Royal, Noble, and great Authority, by which he was to interpose, and over-rule the Differences between both these great Prelates.

Ibid. f. 117.
lin. 39.

In another place speaking of *William* Son to King *Henry* the First, he hath these words, *Willielmum, Quem ex Ingenua Coniuge sua filium susceperat, heredem Regni Substituere sibi volebat.*

It cannot be said that *Maud*, Queen to *Henry* the First, the Daughter of *Malcolm* the Third late King, and Sister to *Edgar* the then present King of *Scotland*, was a *Plebeian*, or an ordinary Woman; the least then that *Ingenua* as an Epithet joyned with *Coniuge*, can signifie in this place Must be, Noble, or Great; and that King *Henry* had his Son *William* by his Noble, Great, or Illustrious Wife, &c.

Monastic. Ang-
glican. vol. 1.
f. 786. col. 1.
n. 60.

In the History of the Founders of *Ford* Abby in *Dorsetshire*, there are these Passages. *Fuit autem Reginaldus de Courtenay filius Domini Flori, Filii Regis Francie Ludovici, cognomento Grossi, ac etiam Hawisia Vicecomitissa, uxor ejus secunda, de sanguine Regio Anglicano, ex parte Domina Albreda, neptis Regis Willielmi Bastardi, Matris Avie sue Domine Adelicie Vicecomitissa, generosa exorta. Tota ergo illorum posteritas, Reginaldi, videlicet, & Hawisie tam ex Patre, quam ex Matre, de Regio Semine prodiit, ac Tribus Regia Franciæ, pariter & Angliæ, in eis mixta fuit, sic sanguis eorum mere sit Ingenuus & precipue generosus.*

Ibid. f. 787.
col. 1. n. 30.

Robert the Son of this *Reginald* and *Hawisa*, or *Avis* after his Death had this Epitaph ingraven upon a Pyramidal Pillar.

*Hic jacet Ingenui de Courtney, gleba, Roberti
Militis Egregii, virtutum laude referti,
Quem genuit Strenuus Reginaldus Courtiniensis,
Qui Procer Eximus, fuerat tunc Devonienſis.*

Dugd. Baron.
Tom. 1.
fol. 639 col. 2.

Monast. Angl.
vol. 1. fol. 789.
col. 2. n. 30, 40.

Hugh Courtney Earl of *Devonshire*, who died 51 Ed. 3. married *Margaret* the Daughter of *Humphry* de *Bohun* Earl of *Hereford*; of her it is said, *Hec Margareta Matrem habuit Ingenuam, Dominam Elizabetham, Illustrissimi Principis & Regis incliti Edw. post Conquestum Angliæ primi filiam, &c. per quam contigit posteritatem Courtneis Regio sanguine Anglico iterum Renovari ex ea provinientem, Ingenuitas enim hujus Domine Margaretæ neptis Regis Angliæ, quæ fuit filia filia Regis Edwardi egregii, Equipollet generositati Reginaldi de Courtney supradicti, qui fuit filius Domini Flori filii Regis Franciæ Grossi Ludovici, & sic generositas de Courtneis recentiori Ingenuitate sublimatur, &c.*

Præcipui

Præcipui Proterea Normanniæ, Gualterius Giffard, Gulielmus Britoliensis, & Radulfus de Conchis defuncti sunt: Walter Giffard Earl of Buckingham died in England, and as he had directed, was carried into Normandy, and buried in St. Maries Church Porch at Longaville, upon whom was written this Epitaphi.

Order. Vital.
f. 809. C. D.

*Stemma Giffardorum; Galterius Ingenuorum,
Qua meruit vivens, Busta Sepultus habet, &c.*

This *Walter Giffard* came into *England* with the Conqueror, and was with him at the Battle of *Hastings*; He was Son of *Osborn de Bolebec*, and *Avelin* his Wife; Sister to *Gunnora* Dutcheß of *Normandy*, and Great Grand-Mother to the Conqueror; and therefore must be many Degrees above the ordinary *Plebeian* Ingenuity.

Gul. Pictav.
f. 202. D.
Gul. Gemet.
lib. 8. c. 37.

Upon Consideration of the antient import of the word *Ingenuus* among the best *Roman Authors*, and the signification and sense that our Writer's own Author *Eadmer*, and other old Historians and Authors used both that and *Ingenuitas* in; no Man can think but that by *Ingenuitas Regni*, he meant *Nobiles*, or *Magnates Regni*, or at least the *Liberi Homines Regni*, which when ever mentioned in respect to Great Councils, and their being there, are all the same Persons.

See *Liberi Homines* in the Glossary.

And therefore because *Sir Henry Spelman* in his Exposition of the word *Ingenuus*, seems not to favour his Notion of it; and in his discourse upon the word *Parliament*, doth disallow his Whimsies and Apprehensions concerning the antient Constitution of it, he says, that he or they who put out the Second Part of *Sir Henry Spelman's Glossary*, did not do right to his Memory, in representing him affirming, That the *Plebs*, the *Ingenuitas*, or *Liberi & Legales Homines*, as he himself tells us the word *Ingenuus*, has anciently been used, are no where amongst the several Councils which he had read of, mentioned to have been there, from the entrance of *William the First*, to the end of *Henry the Third*.

P. 265.

Indeed notice being taken of those Councils where were *Optimates* and *Barones totius Anglie*, and of that famous Assembly at *Salisbury-Plain* of the Barons and *Viccomites*, cum suis *Militibus*, in pursuance of the Summons of *William the First*. The Positiveness of the Assertion, (that is, of *Sir Henry Spelman's Assertion*) That the *Plebs* were not in the antient Councils until the end of *Henry the Third's* Reign, is restrained with a *Ni* in his *Dilutuerit*.

P. 265.
Sir Hen. Spelman doth not say so, he only says the Moderns did now so, use the word, but whether rightly or not, he could not tell. Vid. Verbum *Ingenuus*, in his Glossar.
P. 266.

This *Ni* in his *Dilutuerit* is Ironically spoken; for he says just before, *Ludunt qui Parliamentum nostra in his Querunt*, just when he had mentioned this Assembly at *Salisbury-Plain*, and some others such like before it.

He lays the stress upon some words of *Simon of Durham's* Relation of this Convention, who Transcribed the very words out of *Florence of Worcester*, which are truly recited by this Writer, Page 51. and are these.

William I.
Anno Dom.
1086.

Nec multo post Mandavit ut Archiepiscopi, Episcopi, Abbat. Comites & Barones, Vicecomites, cum suis Militibus, die Kalend. August. sibi occurrerent Sarisberie, Quo cum venissent Milites illorum sibi Fidelitatem contra omnes homines jurare Coegit.

P. 52.

Here I take it (says he) *Milites illorum*, refers to the Knights of the Sheriffs, that is, the Freeholders. And in Page 50 he tells us, The King gave Arms in his Court to the Great Men, and immediate Tenents. The common Freeholders received them in the County-Court.

To let this idle Invention pass, of the common Freeholders being Knighted in the County-Court, which never entred into any Mans head but his own, if he had understood the construction of the words, he could never have said that *Milites illorum* had referred to the *Milites* of the Vicounts or Sheriffs only. The Sentence runs thus, *Quo cum venissent, Milites illorum*; who came to Salisbury? The Sheriffs only? If the Archbishops, Bishops, Abbats, Earls and Barons came thither, as there can be no doubt but they did, then *Milites illorum* refers as well to them as to the Sheriffs, for they were the *Military Tenents* of them that came to Salisbury; which the Conqueror compelled to Swear Fealty to him against all Men. Nor were these *Vicecomites* such ordinary Men, as for some hundred of years last past have been Sheriffs, but they were Great Men, *Pares Comitum*, not Officers under them, but such as governed the Counties for the King, *Vice-Comitum*, instead of an Earl, where an Earl had not the Government of it, and were *Tenents in Capite*, and perhaps Proprietors of as many Knights Fees, as some of the Earls.

Such another Assembly as this there was in the same place, when King Henry the First made all the *Military Tenents* of England and Normandy do Homage, and swear Fealty to his Son William at twelve years of age.

Malmsbur.
fol. 93. a. n.

Filium habuit Rex Hen. ex Matilda nomine Willielm. dulci spe, & ingenti Cura in Successionem Educatum & provectum, nam & ei vix dum 12 annorum esset omnes liberi homines Anglie & Normannie cujuscunque ordinis, & Dignitatis, & cujuscunque Domini Fideles, Manibus & Sacramento se dedere coacti sunt. All the Freemen of England, that is, all the *Tenents in Knights Service*, of what Order or Dignity soever, or of what Lord soever they held, were compelled to do Homage and swear Fealty to him.

Fol. 117. n. 30.
16 H. 1. 1116.

Eadmer relating this very action, tells who were the great *Liberi homines*: xii Kal. Aprilis, *Factus est Conventus Episcoporum, Abbatum, & Principum totius Regni apud Serberiam*, Cogente eos illuc *Sanctione Regis Hen. I. &c.* and then *agnita Regis voluntate omnes principes facti sunt homines Willielmi Fide & Sacramento Confirmati*; and so Florence of Worcester.

Here are the Men and Work of this Assembly, and by neither it can be made out, that these were the Common Freeholders, as at this day, or the Sheriffs Knights, as he calls them, or that this was a Common Council of the Kingdom: for though the same Persons that constituted that, were here, and Thousands more, yet the Business

ness was no Common-Council Business, and the cause of the meeting according to the Summons, was only to take the Oath of Allegiance, and swear Fealty.

Vid. Spelm.
Glossar. f. 451.
col. 2.

Having given an Account of the Assembly at *Salisbury*, and the meaning of the words *Vicecomites cum suis Militibus*, we shall take notice of what our Writer says concerning Sir *Henry Spelman* and his Glossary.

Who if he had lived (he says) to have finished the Second Part, would certainly have given a Compleat Body of Antiquity. And Page 265. he tells us again, That he was convinced from Sir *Henry Spelman's* Interpretation of the word *Ingenuus*, (of which enough is said before) That he or they who put out the Second Part of Sir *Henry Spelman's* Glossary, did not do right to his Memory. But the true Reason of such his thoughts (as is before hinted) was, because he did not accord with him in his Opinion of the Members of the Great or General Councils of the Kingdom.

P. 219.

P. 265.

And indeed as he deals with Sir *Henry Spelman's* Glossary, in saying the Second Part was not his own, so he doth shuffle off all Records and Histories which are directly against him, by saying the *Curia*, or Great Councils there mentioned, were but an ordinary *Curia* or Council, and such as in his own Judgment contain any thing that makes for him, the Councils there spoken of, are Great and General Councils to be sure.

But to return to the Glossary, the First Part whereof to the Letter N. was published in the year 1626. the whole being then finished, and offered by Sir *Henry Spelman* to Mr. *Bill* the King's Printer, for the value of Five Pounds in Books only: But he refusing to give him that small Rate for the Copy, he ventured to Print the First Part of it at his own charge, and most of the Books lay upon his hands until the later end of the Year 1637. when Mr. *Stephens* and Mr. *Meredith* (Booksellers in St. Paul's Church-yard) took them off. The next year, viz. 1638. Sir *William Dugdale* being with Sir *Henry Spelman*, and telling him, that many Learned Men were very desirous to see the remaining Part of that Work, Sir *Henry* then told him what is here related, and produced both Parts of the Glossary, the first whereof was Printed, and inter-leaved with Blank Leaves, as also was the second, which was Manuscript, wherein he had added and altered much.

An Account
of the Second
Part of Sir
Hen. Spelman's
Glossary.

After His Majesties Restauration, the Earl of *Clarendon* then Lord Chancellor, and Doctor *Sheldon* then Bishop of *London*, inquired of Sir *William Dugdale* what was become of the remaining part of the Glossary, or whether ever it was finished? He told them it was finished, and in the hands of Mr. *Charles Spelman*, Grandchild to Sir *Henry*, and youngest Son to Sir *John*. Whereupon they desired Sir *William* to move him to Print it; which he did: but finding that the Booksellers would give nothing for the Copy, and that he was not able to Print it at his own charge, and returning this answer to the Lord Chancellor and Bishop of *London*, they contributed liberally themselves, and procuring many Subscriptions to that purpose,

desired Sir *William Dugdale* to receive the Money, and deal with a Printer to perform the Work: which he did, and caused it to be Printed as he received it, all under the proper hand-writing of Sir *Henry Spelman*, without Alteration or Addition. And had it not been for the Dreadful Fire in *London*, wherein both the Copy and the greatest part of the Impression were consumed, it might at this day have been produced to have confirmed what is here reported. For the truth whereof Sir *William Dugdale*, a Person of great Learning, Worth, and Integrity, and now a Living Testimony without exception, may be consulted, if any Man doubts what is here delivered.

By this Narrative it is evident that the Second Part of the *Glossary* was the true, genuine, and proper Work of Sir *Henry Spelman*; and therefore I shall here Publish his Discourse upon the word *Parliament*, as stating and giving much light to the determining of this Controversie.

Parla.

Ex Glossar:
Spelman,
P. 449.

Parlamentum, al. Parliamentum, & Parlementum.] A. Gall. Parler, i. loqui, *Colloquium* appellabant veteres, & est solenne *Colloquium* omnium *Ordinum* Regni, *Authoritate* solius Regis, ad *consultandum Statuendumque*, de negotiis Regni *indictum*. Hæc Augusta vocis significatio, humiliores recipit.

A *Parliamentum* dixere Croylandenses Cœnobitæ sub temporibus Willielmi II. & Ingulphi Abbatis suas de rebus sui Monasterii *Consultationes*, ut testatur codex illic antique M. S. fol. 89. Et suas utique nostri hodie Jurisconsulti in Hospitus fori; ut notissimum est.

B Croylandensis libri hæc sunt verba----Concessimus etiam tunc Serjentium nostræ Ecclesiæ *Semanno de Lek*; qui veniens coram Conventu, in nostro *publico Parlamento*, similiter juramentum præstitit, quod fidus & fidelis nobis existeret & Officium, &c. E quibus innuit privatæ etiam Consultationes, dici Parliamenta, nam hoc publicum vocant. *Albertus Argentinus* vocem intelligit de omni concessu, etiam *Militari*: sic enim ille sub An. 1218. Cum olim (inquit) *Milites Basilienses* ad Torneamenta, hastiludia, & *Parlamenta* alia cum multitudine egredirentur, &c.

C Et in antiquis scriptis Prædialibus occurrit mihi aliquando *Parlement Hill*, id est, Collis *Parlamentarius*, quod (ut reor) convenire hic olim solebant *Pagenses* aliquot, ad causas inter vicinos dirimendas; prout in Hibernia frequentes vidimus *the Parle and Parlinge Hills* nuncupatus.

D Reperitur (fateor) vox antique in Canuti legibus; sed è recentiore Interprete Anglo-Normanno, Latine data: *Danis* enim & *Saxonibus* peregrina vox.

E Magni hujus Concilii *Specimen* inter *Normannos, Saxones, Britannos* quærunt Philologi. Britannos lepide ex illo Cæsaris, Lib. 5. Summa Imperii Bellicue administrandi Communi Concilio permessa est Cassivilano, p. 87. Quid *Castrense* hoc *Consilium* ad *Civile* nostrum? Quid *confœderatarum copiarum* adversus hostem communem coactum confugium, ad *Ordinum* Regni solennes concessus? Audi Tacitum de Britannis---Olim Regibus parebant; nunc per Principes factionibus & studiis trahuntur; nec aliud adversus validissimas gentes pro nobis utilius, quam quod in commune non consulant. *Rarus duabus tribusque Civitatibus* ad propulsandum commune particulum, *conventus*; ita dum *singuli* pugnant, *universi* vincuntur.

F In vita Agric. p. 142. Vides in hisce Consiliis nec Regis adesse præsentiam, nec authoritatem: & convenire rarius duas vel tres Civitates, fœminasque ut appareat veterum Germanorum & Lacedæmoniorum ritu non exclusas; Nam in Imperiis (inquit idem Tacitus) sexum non discernunt, sic Voadicea Icenorum nostrorum furens *Penthesleia*, quæ----Romanos uno prælio peremit, belli administrat Imperium. Hæc de Britannorum Conciliis.

Saxonum mos, & Germanorum cognoscitur. ----De minoribus rebus (inquit Tacitus) **Principes** consultant, de majoribus omnes. Ita tamen ut ea quoque quorum penes plebem arbitrium est, apud **Principes** prætulerentur. Res minores, exponunt causas privatas & ad forum pertinentes, majores publicas. In celebrandis hisce Conciliis, non coeunt nisi Luna novâ vel plenâ; nec indicto die (ne non liberi viderentur) sed vel altero, vel tertio: Considerant armati, concionemque & silentium moderantibus **Sacerdotibus**, audiuntur vel Rex vel Princeps; vel prout cuique aetas, nobilitas, vel facundia, suadentes autem, non jubentes. In ferendis suffragiis, fremitu aspernunt quod displicet; & framearum concussu laudant, quod placet. Sic Germani veteres in Germaniâ, apud Tacitum; & Britanniam advecti, patrios sine dubio ritus una advehunt, sed fide imbuti Christianâ, rigidiores sensim depouunt, & Christianorum induunt.

Conciliorum igitur duo posthac genera: Ecclesiasticum quod ab Apostolis institutum, expediunt jam **Archiepiscopi**, **Episcopi**, **Abbates**, **Clerus**; Præsentibus etiam sæpius ipso Rege, cum **Magnatibus** populi que **Senioribus**: sed de hoc non hic locus. Seculare, cui post Regem aderant **Prælati** antedicti & **Aldermanni** (alias **Seniores** atque **Sapientes Regni**) hoc est **Duces**, **Comites**, **Proceres** & **Magistratus** nonnulli, ut in voce *Aldermannus*, explicavimus.

Inas Rex Occidentalium Saxonum, qui floruit An. 712. *leges suas condidit*, ut ipse loquitur *mid Gebeah, & mid lere Cenredes Dines Feder, &c.* Consilio (inquit) & documento Cenredi patris mei, Hedda, & Erkenwoldi **Episcoporum** meorum, omniumque **Aldermannorum** meorum, & seniorum **Sapientum** populi mei, magna etiam servorum Dei frequentia: sufficit hoc unum exemplum ad modum exprimendum omnium **Conciliorum** Anglo-Saxonum: Etiam licet nec in eisdem **Episcoporum** fiat mentio, nec **Aldermannorum**. Juxta enim seculi illius usum, comprehendi plerumque solent, vel in præfatione legum, vel in contextu, **Sapientum** vocabulo: Et hoc quidem desiderato, præsentibus tamen intelliguntur omnes, ut ex *Æthelstani* legibus observatur, qui in Ecclesiasticis illic constitutionibus usum se refert, **Episcoporum** consilio, in secularibus vero edendis, nec secularium meminit, nec **Episcoporum**: Interfuisse, tamen utrosque constat è subscriptione quadam dicente. *Calle this was gesetted on tham miclan Synod, &c.* Decreta sunt hæc omnia in magna Synodo Grætelianâ, cui Aderat **Willhelmus** **Archiepiscopus**, & cum eo **Nobiles** omnes & **Sapientes** ab **Æthelstano** congregati.

Sed ut uberius dicam de personis in istiusmodi Concilio convocatis, occurrit primo nusquam me reperisse inter **Saxones** nostros **Plebi** locum cui in Germania Tacitus potiorē tribuit. Qui in Inæ Regis Concilio memorantur, sunt ut vides **Episcopi**, **Aldermanni**, **Seniores**, **sapientes Populi**, & **Servi Dei** de **Episcopis**, satis notum. Aldermanni vox adeo generalis est, ut omnes comprehendat, qui vel dignitate præsunt vel officio: **Regulos**, **Subregulos**, **Principes**, **Duces**, **Comites** & **Magistratus** quolibet, ut in voce *Aldermannus* enarravimus.

Hoc autem loco de Comitibus intelligo & toparchis, quod prætereat, numerat **Seniores Sapientes Populi**; qui Latine idem sunt quod Aldermanni Saxonice.

Seniores Sapientes Populi, idem est Latine quod Aldermanni Sax-
onice, ut in verbo *Senior* referemus. Qui vero appellantur *Servi Dei*,
strictius ego intelligo de Ecclesiasticis, qui sub hisce seculis, peculiari
isto gestiebant nomine eodemque veniunt in condendis Æthelstani
legibus Ecclesiasticis, Cap. 3. Viris non tum consultis secularibus:
Et in Synodali Conciliabulo *Clotshovia*, Ann. Dom. DCCCXXIV.
explicite ponuntur, *Dei Servi*, Presbyteri, Diaconi, Monachi. Ad
hæc quæ diximus fidem faciunt Conciliorum plurium M. S. Charta-
rumque in eisdem Confirmatarum subscriptiones: in quibus præter
Regem, & interdum Reginam, has invenimus: Ex parte Ecclesiasticâ,
passim Archiepiscopos, Episcopos, Abbates; nonnunquam Abba-
tissas, Presbyteros, Monachos. Didascalum, Dogmatistam. Ex
parte laicâ, Regulos, Subregulos, Principes, Patricios, Alderman-
nos, Hertogenas, qui & alias Duces, alias Comites, Præfectos &
interdum ditionis alicujus, putâ Mercia, Hlafordas, (i. Dominos)
Thanos etiam, qui & Ministros. Continentur hi quidem omnes
(ni *Thanum* excipias) sub Aldermannorum nomine, ut supra dixi-
mus; & qui in una Charta Aldermannus scribitur in alia *Hertogin*,
in alia *Dux*, in aliâ *Comes* appellatur. Sic *Ælfherus* in Chartis
Wigornensibus.

Excedo tenebris in crepusculum, sed lux adhuc malefida, *Guliel-
mus I.* qui a *conquirendo*, hoc est *acquirendo* Angliam, non a *subigendo*
(ut plerique censent) dictus est *Conquestor*, *terram totam inter Mag-
nates suos sic disposuit*, ut suum quisque *Patrimonium de Rege teneret
in Capite*, per *servitium plerumque Baronia*. Hinc *Magnates*, *Barones
Regis*, & *Barones Regni* nuncupantur, Regni etiam *Capitanei*, quod
in Capite, id est, a Rege tenuere, & in librum *Domesdei* conscribuntur
singuli; Patrimonia sua (Reservata ad alendum sui ipsius familiam,
splendida portione) suis quisque clientibus (quos vulgo Milites
vocant) feodorum nomine dispartitur, & hi vicissim inter *Tenentes
suos* & *Colonos*. Sic pars nulla Regni vel agrorum præter terras
ipsius Regis, & *quæ Deo data sunt in liberam eleemosynam*, quin alicui
Baronum erat subdita, cum è tenuræ ratione, tum & jurisdictionis
privilegio. Superior enim quisque Dominus, *Regulus agit*, in suos
Subditos, & in rebus ad feodum suum pertinentibus, *ex ipso jure
feodali*, jus dicit, quod de Germanis olim notavit Tacitus: *Agricolis
(inquit) suis jus dicunt*. Agricolas autem appellare censeo, qui
agrariis coercentur legibus & servitiis.

Is not this a
Mark and Ar-
gument of a
Victor.

Mirum interea sub his seculis, *Dominorum in Vassallos Imperium*,
Vassallorum utique erga Dominos, *amor & obsequium*. Quod ex
pertinacia *Gerardi de Carvilla* dignoscatur, qui in magno Regni
Concilio Anno 5 Ric. I. Northamptoniæ, celebrato, læsæ Regiæ Ma-
jestatis postulatus, respondit: se esse hominem (i. e. *Vassallum feoda-
lem*) *Comitis Johannis*, & velle in *Curia sua* jure stare.

Hinc *feodalis Domini* ex assensu feodaliū suorum *Vassallorum* (quos
Pares feodi vocant & *Pares Curie* suæ) leges ferebant, de rebus feodi
sui: Et *Superiores* quique de inferioribus.

Rex perinde qui totius Regni Dominus est supremus, regnumque
universum, tam in Personis Baronum suorum, quam è subditorum
ligeantiâ, ex jure Coronæ suæ subjectum habet *Consilio & assensu
Baronum*

Baronum suorum leges olim imposuit universo Regno; & consentire inferior quisque vilis est, in persona Domini sui Capitalis, prout hodie, per Procuratores Comitatus vel Burgi, quos in Parliamentis Knights and Burgeses appellamus.

Lib. Ramef.
109.

Convenire igitur solebant *Barones Regis*, prout opus, ter quotannis ad Aulam Regiam, id est, ad *Natale Domini nostri*, ad *Pascham*, & ad *Pentecostem*, prodireque tunc solebat Rex coronatus publicè, & cum *Baronibus* de *Negotiis regni* constituere. Sic *Canutus Rex* suas leges in *Christi tulit Natalitiis*. *Edmundus* in *Paschatis festo*, *Henricus I.* Anno 1108. in *Pentecostes*. Sed & aliis quoque temporibus, ut fuit opus.

Habes morem veterem, quem mutasse ferunt *Henricum I.* Anno Regni sui 16. *Plabe ad Concilium Saresberienſe tunc accita*. Hæc vulgaris opinio, quam typis primus sparsit, *Polydorus Virgilius*, acceptam Subſequentes *Chronographi*. Nos ad *Authoris illius seculi* provocamus & vicini. *Flor. Wigornensis* in *An. Dom. 1116*. (qui est 16 *Henrici I.*) ait, *Conventio Optumatum, & Baronum totius Angliæ apud Searesbiriam* 14 Cal. Apr. facta est. *Eadmerus* de eodem ait 13 Kal. Apr. *Factus est Conventus Episcoporum, Abbatum, & Principum totius Regni apud Serberiam, cogente eos illuc Sanctione Regis*. Nichil hic de *Plebe*, nec in notis aliquibus aliis *Authoribus* vel illius seculi, vel alterius cujuscunque; qui tam insigne libertatis Privilegium, silentio (proculdubio) non transiissent. Enatum enim cum jam certo esset, passim prædicant inferiores.

Sed ad hoc reperitur audio nescio quid in veteri quodam *M. S.* codice, *Authoris*, temporis, fidei incertæ---Communes (sic plebem vocant) tunc vocatos. Rem qui amplectuntur ideo factam censent, ut *Rex iste Angligenus Anglos* sibi contra *Normannos maleficos* confirmaret.

Sed *Vir acutissimus Gualterus Raleigh* Lib. de *Prærogativa Parliamentorum, Angliæ* factum non opinatur ante 18 *Hen. I.* quod in Anno 17 Regni ejus, solius sui privati Concilii assensu, tributum imposuit in unamquamque *Hydam*, (seu *Carucatum*) terræ ad collocandam filiam suam in Matrimonio. Et de eodem ait *Huntingtonius*---*Geldis creberrimis & exactionibus variis Angliæ compressa est*. Ego *Anonymum* illum, eo reor deceptum, quod hoc Concilium coactum fuit ut ferunt (*Wigornensis & Eadmerus*) non consultandi gratia, vel statuendi, sed ut *Magnates Angliæ* fidelitatem præstarent & homagium *Gulielmo filio Regis*, quod *Rex ipse dubios in Normania Casus* subiturus esset.

Convocatos etiam ea *Causa* primores plebis verisimile est: nam submerso sub quinquennio postea *Gulielmo Principe, Episcopos Comites Barones*, & omnes qui alicujus videbantur esse momenti, (*Neubrigensis* verba sunt) *Londinum* vocat ad Concilium, fidem jam *Matildi filiæ suæ* juraturos.

Sic Concilium alterum habes illiusmodi, Parlamento nostro sat dissimile; Nam si pro Parliamentis hæc habueris, altiore rei dabit originem *Conquestor ipse*, qui Anno Regni sui 19 Dom. nostri 1086.

Mandavit

Mandavit ut Episcopi, Abbates, Comites, Barones, Vicecomites, cum suis Militibus (i. e. Tenentibus in feodo militari) die Kal. Aug. sibi occurrent *Searesbirie*. Quo cum venissent Milites illorum, sibi fidelitatem contra omnes homines jurare coegit. Flor. Wigorn. in hoc Anno. Ludunt qui Parliamenta nostra in his querunt.

A Sine ut Sodes dicam, collegisse me centenas (reor Conciliorum edictiones tenoresque ipsos plurimorum) ab ingressu *Gulielmi I.* ad excessum *Henrici III.* existentium, nec in tanta multitudine, de *Plebe* uspiam reperisse aliquid ni in his delituerit.

Gulielmus I. semel atque iterum ait se concessisse, &c. per *Commune Consilium totius Regni*. Char. Emendationum, p. 125. Et quod jam-jam citavimus de Vicecomitibus & Militibus evocatis ad fidei vinculum.

B *Gulielmus junior* ita pariter, & de *Henrico I.* lis sub judice.

Stephanus Rex in Octavis Paschæ----tenuit Concilium *Northamptoniæ*, cui præsidebant *Eboracensis Episcopus Thurstanus*, Episcopi, Abbates, Comites, Barones, Nobiles quinque per *Angliam*. Continuat. *Florentii*, in Ann. 1138. p. 519. aut addenda videtur & Conjunctio, aut tollenda commâ, legendumque Barones Nobiles, & sic nihil

C Scrupuli.

Sed *Richardo I.* (Hyerosolimis militante) *Johannes Comes Moretonii*, frater Regis, & *Walterus Archiepiscopus Rothomagensis*, & omnes Episcopi, & Comites, & Barones, & Cives *Londonienses*, cum illis convenerunt in atrio Ecclesiæ *S. Pauli*. Et totius Consilii Judicio, *Willielmus Elyensis Episcopus* à Regni & Cancellariæ regimine deponitur, arduaue alia peraguntur. *Hoved.* in Ann. 1191. p. 701. & Epist. Hug. Covent. Episcopi, p. 703. Hoc tumultuarium videtur Concilium (quod Conciliabulum vocant) non legitimum.

D

E E crepusculo jam in lucem veniamus, quam a tot viris doctis istud agitantibus argumentum, miror non intuitam; *Johannes Rex* haud dicam *Parliamentum*, (nam hoc nomen non tam emicuit) sed *Communis Consilii Regni* formam & coactionem perspicuam dedit, Chartaque sua (quam aliquando vidimus) Anno Regni sui 17. statuit observandum. Proferam ipsius verba, sed primo recitandus est præcedens illic Articulus, qui ad sequentium conducit explicationem.

----Nullum (inquit) *Scutagium* vel *Auxilium* ponam in Regno nostro, nisi per *Commune Consilium Regni nostri*.

1. Nisi ad corpus nostrum redimendum.

F

2. Et ad primogenitum filium nostrum Militem faciendum.

3. Et ad primogenitam filiam nostram semel Maritandam; Et ad hoc non fiat nisi rationabile *Auxilium*.

His

His dictis paulo inferius ait.---Et ad habendum Commune Consilium Regni de Auxiliis assidendis (aliter quam in tribus casibus prædictis) & de Scutagiis assidendis, summoneri faciemus Archiepiscopos, Abbates, Comites, & Majores Barones Regni, sigillatim per litteras nostras. Et præterea faciemus summoneri in generali per Vicecomites & Ballivos nostros, omnes alios qui in Capite Tenent de nobis, ad certum diem, scilicet ad terminum 40. dierum ad minus, & ad certum locum in omnibus literis, Submonitionis illius, causam Submonitionis illius exponemus; & sic facta Summonitione, negotium procedat ad diem assignatum, secundum Consilium eorum, qui præsentés fuerint, quamvis non omnes Summoniti venerint.

Post susceptionem Plebis in Comitibus Parliamentaria sensim decerpitur fatigiosa illa Magnatum potestas coercita, alias eorum in Tenentes imperio, & laxata, alias Plebis in eos servitute. Fit hoc statutis plurimis, adeoque labefactata est superbia Procerum, ut adversus Regem nemo suscitare ausus est, novorum quidpiam si de Regno non ageretur. Sed ecce novus jam Leviathan grassari capit Liberata jam ab imperio dominorum, offensa ex quavis causa Plebs, quæ ad arma hæctenus, absque voluntate Dominorum nunquam convolvant; jam non habentes quibus audiant, in gravissimas insurgunt rebellionés, quod ne semet unquam factum est antèrius.

Upon the whole I observe, That many Records and Authorities cited in this Work, are to be found in Mr. Petyt's Treatise; and that the Author of it, (as I am informed by such as cannot but know it to be so) never saw above one or two of the Original Records he hath cited: And therefore it is much to be suspected he had both the Design and Materials of his Book given him.

I have in these Animadversions, in several Instances shewn how Bold this Writer hath been in mis-interpreting Histories and Records, and how he hath abused them by substracting from them, and putting the remaining parts together with much artifice, for his own purpose, that by such practices he might delude and draw his unknowing and unwearied Readers into his Opinion. But either this Person, or another so like him in Temper, Fancy, and Scribbling, as they cannot be distinguished, hath out-done all men that ever put Pen to Paper, in either willful or pretended Ignorance, and open Effronterum in the Explanation of a Passage in Gervase the Monk of Canterbury, in the Reflections upon Antidotum Britannicum, &c. Printed 1682. with the Lord Hollis his Remains, p. 273. by which he would prove and assert the Right of all Free-men, or Free-holders, to come to, sit, vote, and make Laws in Parlemtent: I will present him and the Monk in Parallel.

The Reflections upon Antidotum Britannicum, p. 273, 274, 275.

Chronica Gervasii, Col: 1410, 1411, & 1412.

IN the Sixteenth of Henry the Second, that King held his Easter Court-Baron at Windsor, as Brompton shews us, Col. 1060. n. 50. *Rex Tenuit Curiam suam in Solennitate Paschali.* Thither indeed were flockt most of the Nobility, *Fere omnes Regni Anglia Episcopi & Magnates.*

But this being a *Curia de More*, an ordinary Court, which no more than Tenents in chief were obliged to take notice of, nothing of universal Obligation could then be established; wherefore from hence the King went to London, where, as that Historian says, *De Coronatione filii sui Henrici Majoris, & Regni sui Statutis, magnum celebravit Consilium.*

Gervasius Col. 1412. (as in his Margin) who lived in that time, acquaints us particularly with the Summons and Appearance thereupon. *Convenerunt interim Die Statuto, ex mandato Regis ad Lundoniam totius Angliæ Episcopi, Abbates, Comites, Barones, Vice-Comites, Prapositi, Aldermanni, cum suis iussoribus suis.*

There assembled at London, according to the Kings Summons, the Bishops, Abbats, Sheriffs, the Heads of Hundreds and of Tithings; with all the Frank Pledges throughout England, unless the *sides* iussores answer the Manucaptors.

He says in his Margin, this Explanation is warranted by St. Edward's Laws. *Habent etiam Aldermanni, in Civitatibus, & in Burgis Clausis, & Muro vallatis, & in Castellis, eandem dignitatem,*

A Brief and True Account of this great Meeting, which Gervase the Monk of Canterbury mentions, will discover the wonderful Ingenuity and Sagacity of this busie Writer.

In the year 1166. King Henry the Second went into Normandy, Chron. Gerv. Col. 1399. lin. 5. and there staid until the year 1170. when on the Third of March he landed in England, Ib. Col. 1410. lin. 1. & c. In his absence many Enormities, Exactions upon, and Extortions from the People had been committed, by his own Ministers and Bayliffs, by the Earls, Barons, Bishops, Abbats, or their Ministers and Bayliffs, and by the Sheriffs of Counties, and their Ministers and Bayliffs. For redress whereof, the King, *Convocatis optimatibus suis, instituit, Abbates & Clericos, Comites & Milites, qui circumirent terram, Dans formam inscriptam, quomodo eis esset agendum, Ibid. n. 10.*

In Cantiam, Suthreiam & Middelfexe, & Berkescire, & Oxnedfordscire, & Buckinghamscire, & Bedefordscire, Missi sunt Abbas Sancti Augustini Cantuariæ, Abbas de Cherteseie, Comes de Clara, Willielmus de Abzancis, Manesier Dammartin, Geroldus filius Radulfi, Gilebertus de Pinneris. Willielmus filius Helt. Willielmus filius Nigelli, Willielmus filius Barrini, Radulfus de Hospitali, Radulfus de Dene: Hi omnes simul supradictos Comitatus circuierunt. In hunc modum per alios Comitatus Anglie, Inquisitores missi sunt & hac inquirere debuerunt.

In

& potestatem, & modum, qualem habent prepositi Hundredorum, & Wapentachiorum, Spelm. Gloss. Tit. Aldermanus. What warrant this can be for his Explanation, 'tis not, I think, possible for any man to find out. And then he goes on with his Explication, and says further: If this takes not in all the Freeholders of England, he knows not what will; for he that was no Pledge, or was no Fidejussor, was either an Out-law, or not his own man, but his that was to be answerable for him: But every Master of a Family, or Freeholder, that was within the Protection of the Laws, was one of the Frank-Pledges. And indeed Brompton tells us in express Terms, that all the Libere Tenentes Regni sui, all the Freeholders of the Kingdom were there, for they all swore Allegiance to the young King, as well as to his Father.

Omnes Comites, Barones, & Liberos Regni sui Tenentes, devenire homines novi Regis Filii sui, sibi que super Reliquias Sanctorum, Ligeantias & fidelitates jurare, Fidelitate semper nihilominus sua salva, Col. 1061. n. 10.

But if Fidejussores mentioned in Gervasius, were no more than the Manucaptors which used to answer for the Appearance of them that were chose to Represent the Counties, Cities, and Burghs in Parlement, then here is positive proof of such Representation of the Commons, as was in the times of Edward the First, Edward the Second, and so downward; yet 'tis not improbable that the Pledges or Manucaptors for the Knights, Citizens and Burghesses chose to Parlement were introduced long after this time, instead of the Fidejussors, or Frank-pledges, when that admirable ancient Polity, about Frank-pledges became

In primis exigent Barones crantes, Vadium & Plegium, ab omnibus Vicecomitibus, qui fuerunt Vicecomites, postquam Rex transfretavit in Normanniam, & ab omnibus qui post terminum illum fuerunt Ballivi, & Ministri eorum, quamcunque Bailiam de illis habuerunt, & ab omnibus illis qui post Terminum illum, Hundredos Baronum, quos ipsi habent in Comitatus, sive illos habuerant ad firmam, sive in Custodia, quod erunt coram Domino Rege, die, quem ipsi eis constituent, ad Rectum faciendum, & addretiabunt ei, & hominibus suis, quod addretiare debuerunt. Et si Vicecomites ante illos venire non possunt, mittant loco suo, qui pro illis respondeant, & illi Dent Vadium & Plegios sufficientes pro Vicecomitibus, & ipsi ipsis, quod facient coram Domino Rege, hoc quod Vicecomites facere deberent, ad diem Constitutum postea capient Sacramentum, ab omnibus Baronibus, Mililibus & Liberis hominibus de Comitatu, & ceteris hominibus, & ab omnibus Civibus, & Burgensibus, quod verum dicent de hoc, quod ab eis inquireretur, ex parte Domini Regis, & quod non celabunt veritatem, neque pro alicujus amore, nec odio, nec prece, nec pretio, nec timore, nec pro aliqua promissione, nec pro ullâ re, Ibid. n. 20, 30, 40.

After this follows eleven Articles of Inquiry, which were given to the Inquisitors, as Directions of what they were to do, of which the eighth was this.

Omnes qui Rectati fuerint, de quocunque Recto, ponantur per vadium & per plegium, quod sint coram Domino Rege, die quem eis ponent, & quod Rectum facient, & addretiabunt ei, & hominibus suis, quod addretiare debuerint. Et quibus plegii defuerint, custodiantur, Ibid. Col. 1411. n. 40.

That

became impracticable, and was discontinued or broken, through the general corruption of Manners, which rendered it impossible for whole Neighborhoods to answer for one another, and through the Pride and Ambition of some who thought themselves above that Law.

And when the numbers of *Frank-Pledges* (had that happy Combination still been maintained) would, through the vast Multiplication of Proprietors, have been too great to assemble together, upon any occasion requiring Counsel and serious Debates.

There is one Difficulty which arises upon the examining this point of Antiquity; that is, since we rarely meet with Authorities, though some there be, which particularly describe such as Citizens and Burgeses, as summoned to, or present at the General Councils of the Kingdom; what shall we think of them?

To which I am bold to say, that even Citizens and Burgeses might have come under the consideration of *Freeholders*, *Inter liberos Regni Tenentes*, or, *Barones*, *Baronagium*, *Barnagium*, or the like: Thus far the Reflector.

In this Impertinent, Senseless, yet Seditious Explanation of the words of *Gervase* the Monk of *Canterbury*, he informs his Reader what he means by *Manucaptors*, in an Instance from a Bundle of Summons to Parlement 23 of *Ed. 1.* cited in his Margin, p. 274. of *Sir John Doyley* one of the Knights for *Northamptonshire*, his having two *Manucaptors* or Sureties bound for his appearance in Parlement according to Summons, which was in those times as common as the Elections.

They

That is, And all which are any ways accused, shall give Security for their appearance before the King, upon the day appointed unto them, and that they shall do Right, and inform the King and his men of what they ought to be informed; and such as cannot provide Sureties, let them be committed to Prison. And then,

Facta hac inquisitione mirabili, omnes jussi sunt, ut essent coram Rege in Civitate Londoniæ, decimo octavo Kalendarum Julii, Ib. n. 60.

After this wonderful Inquisition was made, they were all commanded to be before the King in the City of *London*, on the 14th of *June*.

And then after all this, follow the words our Writer hath cited out of this Historian, and some others he hath concealed.

Convenerunt die Statuto, ex mandato Regis ad Londoniam totius Angliæ Episcopi, Abbates, Comites, Barones, Vicecomites, Præpositi, Aldermanni cum fidejussoribus suis, Timentes valde omnes. Quisque juxta conscientiam suam, metuebat, nesciebant enim quid Rex Statuere decrevisset.

This last Sentence, and all the words from the word *Suis*, (our Fair-dealing Writer) hath concealed; as likewise this which follows in the next words: *Ipsa die Henricum Filium suum, qui eadem septimana de Normannia venerat, Militem fecit, statimque eum stupentibus cunctis, & mirantibus, in Regem ungi præcepit, & Coronari.* And a little further on, the Historian says, *Coronatus itaq; novus Rex, ex Præcepto Patris sui, Comitum & Baronum suscepit fidelitates, & sic timore culpæ Deposito, omnes ad propria redierunt, Ibid. Col. 1412. lin. 4. & n. 10, 20.*

In

They were *Richard Bird*, and *William Ellis*.

And whether the *Fidejussors* mentioned by the Historian, were or could possibly be understood of *Decenners*, such Frank-Pledges as were Members of the old *Saxon Decenna*, or Tithing, continued long after the Conquest, or of such *Manucaptors* as these, the Judicious Reader will be best able to determine, when he hath considered this particular Story, and the words of the Monk.

Kings Command, the Bishops, Abbats, Earls, Barons, Sheriffs, Bayliffs, and Aldermen, (or *Reves*) of all *England* came to *London*, with their *Fidejussors* or *Sureties*, greatly fearing every one according to his Guilt, what the King would do with them, &c. This is a just Account of this great Meeting at *London*, and I leave it to all sober Men, to consider the *Ignorance*, *Temerity*, and *Faction Boldness* of this Scribler; and to judge, whether it be possible for any Man, but himself, to find out in the word *Fidejussors*, in this place of *Gervasius*, the *Decenners*, (now in *Leets* called *Deciners*, *Disners*, or *Desners*) or the Ten Persons with their Capital Pledge in every Tithing, that were Sureties for one anothers good behaviour; or the *Manucaptors* which were two or four Persons bound for the Appearance of such who were elected to serve in Parleмент, according to the time limited in the Writ of Summons; or whether it be possible for any man justly, fairly, and honestly, to infer from the Passage he cites out of *Gervasius*, that all the Freeholders of *England*, as now known and understood, (for that he must mean, or nothing) had or have Right to sit in Parleмент, or the General Councils of the Kingdom; and whether they, and the Citizens and Burgeffes had or have Right to come to Parlements, under the Consideration of *Barons*, *Baronage*, or *Barnage*. They are his own words, and this is the Way and Genius of the Man, through all his Seditious Scriblings.

In this Story we find there were Inquisitors appointed to search into the Crimes and Enormities of the Sheriffs and their Bayliffs and Ministers in all Counties of *England*; likewise of the Kings Bayliffs and Ministers, and the Bayliffs and Ministers of the Earls, Barons, Bishops, Abbats, &c. Also that by special direction, the Inquisitors were to appoint such as were accused, a day to appear before the King, and in the mean time to find Sureties for their appearance and behaviour: at the time appointed by the

A

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E

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A FULL
ANSWER
To all the
PARTICULARS
Contained in a
BOOK,
ENTITLED,
Argumentum Antinozmanicum,
OR AN
ARGUMENT
Against the ASSERTION, That
William the First
CONQUERED
ENGLAND,
And Governed as a
CONQUEROR;

And also to what *Sir Edward Coke*, *Mr. Selden* and others have
said upon the same Subject.

In which the Partiality and Ignorance, or Disingenuity and slye
Practices of this Writer, and the Mistakes of others are de-
tected, and many dark Passages of History and Antiquity, com-
monly mistaken and misunderstood, are Explained, and their
true Meaning Discovered.

In the *SAVOY*,
Printed by *T. N.* for *Samuel Lowndes*, over against *Exeter-Exchange*
in the *Strand*. MDCLXXXIV.

A N
A N S W E R
T O A
B O O K

E N T I T L E D,

Argumentum Antinormanicum, &c.

THis Book is for the most part the *Preface* to Mr. *Petyt's Rights of the Commons Asserted, &c.* put into a new *Method*, and that *Preface* is collected out of the several *Prefaces* to Sir *Edward Cokes* Third, Fourth, Eighth, and Ninth parts of his Reports, or Mr. *Seldens Discourse upon* this Subject in the (1.) *Review of his History of Tithes*, transcribed in this Book from pag. 37. to 46, as may appear to any one that will take the pains to compare them.

(1.) pag 482,
483, 484.

The Method he here useth (for 'tis the same Author still in Masquerade) is propounding and answering four Questions.

The first Question is,

Page 4.

Whether *William Duke of Normandy* (who was afterwards *William the First*) got the *Imperial Crown of England by the Sword*, and made an *absolute Conquest of the Nation* at his first Entrance.

This Question is not truly stated, for it ought not to be put, whether at his first Entrance or Invasion he obtained the Crown by the Sword, but whether in process of time, and by degrees, he did not by force and artifice, make an absolute Conquest of the Nation? For we are not so much to Consider what he did upon his first Invasion of England, or for some short time after, as to take notice of his Establishment, and Government, when it was wholly under his power, and that by the daily accession of Normans or other Foreigners, and by building very many Castles and Forts in all parts of the Nation, and placing Garrisons in them, he had secured himself and those that came with him.

The Question
not truly
stated.

We seldom, or never read of any one who designed to Conquer a Nation or People, that told them before hand, that he would deprive them of their Estates or Fortunes, give them new Laws, or abridge their Liberties, especially if he had any pretence of a Title,

(3.) *Gul. Piſt.*
f. 191. A. B.
In gulph. f. 511.
b. n. 40. *Selden*
in his Review
of Tithes ſays
this Donation
was a lawful
Title, p. 482.
(4.) *Piſtav. f.*
197 C. *In-*
gulph. f. 512.
a. lin. 7.

(5) f. 207. C.
D. 208. A. B.

The Juſtice
and Equity
of the Con-
queror at his
firſt Entrance.

*Minimum op-
primi viſes
non oportere
victoribus pro-
feſſione Chri-
ſtiana pares.*

(6.) *Ibidem.*

(7) f. 505. C.
506. A.

His Artifice.

(8.) *Ibid. B. C.*
C. *Piſtav. f.*
208. B. 209.
B. C.

(9.) *Ibidem.*

(1.) f. 208. C.

as Duke *William* then had to *England*, the (3.) Donation and Grant of *Edward* the Confessor, confirmed, or at least allowed by the Popes encouraging and sending him a (4.) Banner.

Hence it was that *Guilielmus Piſtaviensis* first, and *Ordericus Vitalis* from him, do sometimes report *William* the Conquerors smooth behaviour toward the *English*, and his equal and just dealings with them, upon his first Entrance into the Kingdom, and four or five years afterward.

Piſtaviensis (5.) ſays, after he was at *Chriſtmaſs* Crowned at *London*, he ordered many things prudently, juſtly, and mildly, ſome to the profit and dignity of that City, ſome to the advantage of the whole Nation, and other ſome to the benefit of the Churches of the Land; whatever Laws he Dictated, he Eſtabliſhed with Excellent Reaſon. No Perſon in any Matters asked of him right Judgment, he Condemned none, unleſs ſuch as it had been a Sin not to have Condemned, with gravity he Commanded things worthy of themſelves to be performed by his Prime Men, and diligently perſwaded them to Equity, that they ſhould have continually before their Eyes, the Eternal King, by whoſe power they overcame, that the Conquered ought not ſo much to be oppreſſed, being equal to their Conquerors in the profeſſion of Chriſtianity, leſt by Injuries they ſhould force thoſe to Rebel whom they had juſtly ſubdued. He prohibited Sedition, Slaughtering, and all Rapine, reſtraining the People with Arms, and Arms with Laws; He impoſed Tribute, and every thing that was to be paid into the Exchequer moderate, and without Grievance; Thefts, Intruſions, Evil Doings were not allowed in his Territories, the Ports and all Paſſages were open to Merchants and Traffickers, and he commanded they ſhould receive no Injury, (6.) ſo the beginning of his Reign was altogether fair and juſt. The *Lat. n.* whereof this is a *Tranſation* word for word, is *Transcribed* by (7.) *Ordericus* out of *Piſtaviensis*, and is Cited by this Author from *Ordericus*, pag. 89. of which he gives only the ſenſe, and wreſts it to his own purpoſe, pag. 71. or as it is falſe Printed 41.

Theſe Actions of the Conqueror were all Artifice to make the *English* ſecure, while he did his own Buſineſs, for immediately after this; both theſe Authors Report (8.) that *William* left the City, and ſtaid ſome time at *Barking* in *Effex*, until certain Caſtles and Forts were finiſhed in the City, to keep the People in ſubjection, and that from thence he went into other parts of the Kingdom, and cr- dained things profitable for himſelf and the Inhabitants. And appointing Trusty and Stout Frenchmen Governors in his Caſtles which were Garriſoned, with many Horſe and Foot, in March following he paſſed into *Normandy*, taking with him as Hoſtages *Stigand* the Arch-Biſhop, *Edgar Atheling*, the three great Earls, *Edwin*, *Mozcar*, and *Waltheof*, with very many others of the Chief Nobility for the ſecurity of his New Conqueſts.

They (9.) both further ſay, he gave the Governors of Caſtles great Eſtates in *England*, and (1.) *Piſtaviensis* adds theſe words to his Report, *Nulli tamen Gallo datum eſt Quod Anglo cuiquam injuſte fuerit ablatum.* That no Frenchman had any thing given him which was unjuſtly taken from an *Englishman*.

Ordericus

A *Ordericus* that most commonly Transcribes not only the Matter but the words of *Pictaviensis*, omits this passage, as knowing it not to be according to truth, for although he was (2.) *Chaplain* to the Conqueror and wrote his Acts, *such as he saw, and was present at*, yet (3.) through *cross Events* was hindered writing the whole Life of this *Duke and King*, and brought his *History* no farther than the year 1070. as *Ordericus* in that year tells us. 4. *Hic usque Gulielmus Pictavinus Historiam suam texuit in qua Gulielmi Gesta subtiliter & Eloquenter Enucleavit.* And so far as he wrote *Ordericus* Transcribed, interposing some things of his own, though now we have nothing further of this *History* after the (4.) death of *Earl Coxo*, which happened in the (5.) year 1067. so that both *Pictaviensis*, and *Ordericus* in what he reports from him are *incompetent Witnesses* of *Duke Williams Establishment* in *England*, it being for the greatest part made and perfected after the time of *Pictaviensis* his Writing.

(2.) *Orderic.*
f. 503. D. 507. A.
(3.) *Ibidem.*

(4.) *Pictav. f.*
212. D. 213. A.
(5.) *Order. f.*
509. A.

B And whatsoever these *Historians* say of *William* the First in the beginning of his Reign, who ever attends to his Actions, (6.) as drawing his Army about *Westminster Abby* on the day and the time of his Coronation, his building Fortresses and Castles within the City of London, and placing Norman Garisons and French Governors or Castellanes in the Castles in the Country, and giving them great Estates, his carrying the Chief of the English Nobility with him as Hostages into Normandy, (which was but an honourable Imprisonment) and his Dictating Laws, cannot but believe, he intended to Rule as a Conqueror and by the Sword from the very beginning.

(6.) *Pictav. f.*
206. A.

William at first
acted like a
Conqueror.

D This in general is a sufficient Reply to what this Author hath said in the solution of his first Question, but foreseeing he will by another Method and another Title make a new Book of the same Materials, if all his trifling Instances be not refuted, I shall particularly consider what he hath said in verification of his Answer to it.

He says *William* laid a far greater stress upon his Claim and Titles to this Kingdom, than ever he did upon his great and mighty Conquest, which he affirms to be evident from the Particulars following.

Antinorm. p. 5.

E First, In that before his Conquest, when the People had chosen *Harold*, the Son of *Earl Godwin*, for their King, after the death of *Edward the Confessor*, and had put aside *Edward Aetheling*, by right of Blood and Inheritance Entitled to the Crown. This Norman Duke made his loud Complaints of the Injuries done him in not Electing him, for he was Cosen German to the Confessor who died without Issue, and therefore pretended the Right truly devolved upon him.

Ibidem, & jus
Angl. ab anti-
quo, p. 38.

F What is here said concerning the choice of *Harold*, and insinuated on purpose to abuse unwary Men, and cheat them into a belief that this is an Elective Monarchy, is not true, if we may credit the best Historians, and such as lived nearest the matter of Fact. *Pictaviensis* tells (6.) us, That *perjurus Haraldus Regium Solium cum plausu occupavit, quibusdam iniquis faventibus.* Perjured Herald usurped the Royal Throne, a few wicked Persons favouring him. (7.) *In-*
golphus

Harold was
not Elected
King.

(6.) f. 196. D.

(7.) f. 511. l.
n. 50.

(8) f. 52. b.
n. 30. 40.

(9) f. 210. b.
n. 10.

* Rex Heraldus Secundus Godwini filius hoc Regnum sibi temere usurpavit.

Paris, in vit. Abb. f. 4^a. n. 20, 30. King Harold the Second Son of Godwin, rashly usurped to himself this Kingdom.

(1.) f. 633.
A. D. 1066.

golphus says, *Throno regio se intrusit*. That he thrust himself into the Royal Throne. (8.) William of Malmesbury reports, That *Extorta a Principibus fide, arripuit Diadema, quamvis Angli dicunt a Rege Edwardo Concessum. Quod tamen magis Benevolentia quam Iudicio allegari Existimo* (saith the same Historian) *ut illi Hereditatem transfunderet suam, cuius semper suspectam habuerit potentiam*. Having extorted an Oath of Fidelity from the Principal Men of the Nation, he seized the *Diadem*, although the English Report, it was given him by King Edward, which yet was (as Malmesbury thought) alledged rather out of kindness to Harold than belief, or judgment, that he should transfer his Kingdom or Inheritance to him, whose power he always suspected. With these agrees Hen. of Huntingdon, whose words are, (9.) *Haraldus viribus & genere fretus, Diadema invasit*. Harald by force and the assistance of his Relations and Kindred invaded the Crown. * This is Testimony enough to shew that Harold was not Elected; and though Florence of Worcester says he was Elected, yet he could mean no other thing by it, then that he was received, and submitted to as King. Or, that as these five Historians (two whereof were living when the thing was done, and two of the other not long after) do report, that he set the Crown upon his own Head by force, fraud, and the assistance of his powerful Kindred and Friends. His words are these, (1.) *Rex Edwardus Epiphaniæ Domini vigiliæ, mortem obiit Londoniæ, & in Crastino sepultus, Regio more, Quo tumultato, Subregulus Haraldus, Godwini Ducis filius, quem Rex ante suam Deceßionem, Regni successorem Elegerat, a totius Angliæ primatibus, ad Regale Culmen Electus, die eodem ab Aldredo Eboracensi Archiepiscopo in Regem est honorifice Consecratus*. We find in this Relation, that Edward the Confessor died on the Eve or Vigil of Epiphaniæ, and was buried the next day, being the Feast of Epiphaniæ, and that on the same day Harold (according to this Historian) was chosen and Crowned King by the Prime Men of all England. These must be such only as were about the Court, and no others, it must be also a Faction that set him up, or rather assisted him in setting up himself, for it can never be imagined that the People could have notice all England over to come to, or send their Representatives to such a Solemnity, and that the Election should be made, and the King Crowned in the space of twenty four hours; and therefore if it should be granted, that he were chosen, the People never did choose him, as this Author insinuates, nor so much as had notice of, or did know of his Election, so that they only received, and submitted to him as their King.

(2.) Col. 193.
n. 30.

(3.) Flor. Wigorn. f. 635.
A. D. 1067.

The same words hath (2.) Simeon Dunelmensis (who is an exact Transcriber of Florence) save that in stead of *primates*, he useth the word *principes*, which is of the same signification; and what he meant by *primates*, we are taught by the same Author in the year following. (3.) *Advenient Quadragesima Rex Gulielmus Normanniam repetiit ducens secum Dorobernensem Archiepiscopum Stigandum, Glastoniensem Abbatem Agelnothum, Clitonem Edgarum, Comites Eadwinum, & Morcarum Waltheofum Swardi ducis filium, Nobilem Satrapam, Agelnothum Cantuariensem, & multos alios de Primatibus Angliæ*. In Lent King William returned into Normandy, carrying with him Stigand Arch-Bishop of Canterbury, Agelnoth Abbat of Glastonbury, Prince Eadgar, the Earls Edwin and Morcar, Waltheof Son of Duke Sward,

Sivard, Agelnoth the Noble Earl of *Kent*, and many others of the *Prime Men* of *England*; Amongst *these*, and such as *these Primates*, were no *Commons*, and therefore the *People* (in this *Gentlemans sense*) did not Elect him, nor can it be any ways proved, (by any *Person* that would make this an *Elective Monarchy*) that he was ever *Elected* according to the *genuine*, and *just meaning* of that word, for which see the *Glossary*.

A

Nor is it less untrue that the Kingdom truly devolved upon *William* by right of *Blood*, if he had not been a *Bastard*; for he had no other pretence of right that way, then by *Emme*, who was *Sister* to *Richard* the Second Duke of *Normandy*, and *Aunt* to his Father *Robert*; and the *Relation* she had to the Kingdom of *England* was only by being *Queen* to *King Ethelred*, and afterward to *Cnute*, and Mother to *Edward* the *Confessor*.

Antinorm. p. 5.

The Kingdom did not devolve upon *William* by Right of Blood.

B

Secondly, Certain it is, that the *Confessor* named him his *Successor* some time before he died, and that (4.) he sent over *Robert* Arch-Bishop of *Canterbury* to inform him that he had done it; but we will pass over this pretence, until we come to his 18, and 19 Pages, where it will be more aptly taken notice of.

Antinorm. p. 6.

§ 18.

(4.) Ingulph. f. 511. b. n. 40.

C

The third Particular, by which he would make it evident that *William* laid a far greater stress upon his *Claim* and *Title* than his *Sword*, is the unkind Answer that *Harold* returned to *William*, when he sent to him to demand the Kingdom according to *King Edwards* Donation, and after what manner he raised an Army and won the *Battle of Hastings*, in which *Harold* lost both his *Life* and *Crown*. This is indeed a Particular much to the purpose, but let it be never so ridiculous and absurd, yet there are two Citations in the Story, which seem to favour another fancy of this Authors about the ancient Rights of the *Commons*, &c. and for the sake of them he framed it.

Antinorm. p. 6.

Ibid. p. 8, 9.

D

The first is the Answer (5.) which *Harold* sent Duke *William*, cited out of *Malmsbury*, f. 56. a. n. 20. when he was pressed with the Oath he had made to him to assist him in obtaining the Kingdom after the *Confessors* death, in these words, *De regno presumptuosum fuisse Quod absque generali Senatus & populi Conventu & Edicto, alienam illi hereditatem Juraverit, proinde stultum sacramentum frangendum*. Concerning the Kingdom it was a presumptuous thing in him to Swear to give Assistance to obtain another Mans Inheritance, without a general Convention and Edict of the Senate and People, and therefore a foolish Oath was to be broken.

(5.) Antinorm. p. 6.

E

This last Clause of the Answer he hath omitted, and for what reason, it will presently appear; and truly he might have omitted the whole, as no ways proving the *Commons* to have had any share at that time in the Government, if he had considered what hath been said upon this very Passage in the Answer to Mr. *Petty*, pag. 16. or what he himself hath said in this Book, pag. 31. partially cited out of *Mat. Paris* writing of the Title of *William* the Conqueror; Dicitur (6.) tamen quod beatus *Edwardus*, eo quod herede caruit, Regnum legavit *Williclmo Bastardo Duci Normanicorum*, and cites no more, the next words being *Sed robore caruisse asseritur, quia fecit in lecto lethali*,

(6.) f. 941. n. 50.

F

Et sine Baronagii sui assensu Comuni. These last words of *Paris* do Expound and give us the meaning of those of *Malmsbury*, *absque generali Senatus Et Populi Conventu Et Edicto*. That is, without the common assent of the Clergy and Laity, or the Baronage of *England* of both Orders; those words of *Malmsbury*, and the other of *Paris* being spoken upon the same occasion.

Antinorm. p. 8.

(7.) p. 173.

(8.) p. 174,
175.

(9.) f. 197.
A. B.

* *Ibidem.*

And for no other end, he tells us by what means *William* raised his Army with which he subdued *Harold* and the Nation: his Author is (7.) *Verstegan* in his *Restitution* of decayed Intelligence, who says the greater part of the Nobility and People were unwilling to assist *William* in this Enterprize. But at length the Duke whose Head was filled with Ambition, so much prevailed in his Assemblies of the three Estates, which consisted of the Clergy, Nobility, and Commons, that the Nobility promised to serve him, and the Clergy and People to aid him with Money, according to their several abilities; and such Offers as they made, were forthwith set down in Writing, by a Secretary there present. Here our Author stops, and had no mind to go on with *Verstegan*, who in the next words says, that *Odo* Bishop of *Bayeux* accorded to furnish him with forty Ships, the Bishop of *Meins* with thirty, and others according to their benevolent minds; then began he to desire Aid of the Princes his Neighbours, as of the Earls of *Anjou*, *Poitou*, *Du Main*, *Ponthieu*, *Boulounge*, and others, promising to give Land unto every of them in *England*, if he Conquered it, according to their Qualities. And in the next (8.) Pages he further writes, that *Alan Fergant* Duke of *Britan*, the Lord of *Tovars*, the Son of the Lord *Bertram* of *Dignam*, *Raoul* of *Gayel*, and other Barons and Gentlemen, as well of *Normandy*, as other parts, came in great numbers of their own accord, some of them required Wages and good furniture, others demanded but their Passage, and to take in recompence of their Service, what they could get in *England*, one demanded a Castle, another a Town, and some contented themselves with the promise of having some good Lady or Gentlewoman in Marriage, and unto the Requests of every one of them the Duke accorded. This is full Evidence indeed, that *William* did not intend to Rule as a Conqueror; but let us see what the three Estates were with whom the Duke consulted about this Expedition, (for this Story was drawn in, meerly to countenance the fancy of the ancient Rights of the Commons, &c.) *Pictaviensis* who was in this Action with him, tells us, (9.) that very many of the great Men of *Normandy*, dissuaded the Duke from the Enterprize, as a thing too difficult, and above the power of *Normandy*; that there were then in that Country, besides Bishops and Abbats, Men most Excellent in Council and Advice of the Lay Order, *Robert* Earl of *Moreton* or *Mortaign*, *Robert* Earl of *Owe*, *Richard* Earl of *Eureux*, *Roger de Bello-Monte*, or *Beaumont*, *Roger de Monte Gomerico*, or *Montgomerie*, *William Fitz-Osbern*, and *Hugh the Vicount*. With these * only he advised, who readily complied with what he propounded, and by their example, encouraged all *Normandy*, to provide Ships, Men, Arms, and all things necessary for War, *Convenit etiam in auxilium Miles Copiosus Externus*, there came also into his Service great store of Foreign Soldiers, and he kept 50000 at his own Charge a Month, being Wind bound in the Port of *Dive*. I believe our Author, though he should use *Verstegans* Spectacles, could hardly find any Commons in this Consult.

Our

Our Author says next, That the Duke was no sooner landed with his Army, but by his *Proclamation*, he declared upon what occasions he thus entred the Realm, and so preparing to give *Harold* Battle, he hereby seemed, as if he would have all the World to know, his Quarrel was more Personal, than National, and that though he was Victorious over *Harold*, he was no absolute Conqueror.

Antinorm. p. 9.
10, 11.

A

This Argumentizer should (to have made this Story more plausible) have cited this Proclamation, or told us where to have found it, but if he had, it would not have signified much as to the Credibility of the Matter in Controversie, for how many *Declarations*, *Proclamations*, &c. was there set forth in this Nation between 30 and 40, and 20 and 30 years since, by designing Men of several *Factions*, whose *Principles* are at this present, *forging*, *hammering*, and *dressing* up again, yet not one syllable of them made good; for the *Declarations* and *Pretences* of such Men, and indeed all *the Innovators*, are but *Coverings* and *Shadows* to cheat the People, nor do they ever oblige them, when they have opportunities to advance their Designs.

Designing,
observe not
their own De-
clarations.

B

Again, If his Quarrel was only *Personal*, and that he intended only to Conquer *Harold*, and not the Kingdom, I desire our *Logician* to tell us, when he was slain, and the Battle obtained against him, why he did not *disband* his Army and make good his Proclamation? Or, why he did on the contrary *build Castles* and *Cittadels* in *London*, and in very many other convenient places in *England*? Why he put *Norman* or *French Garisons* and *Governors* into them? And, why he oftimes sent for fresh Forces out of several Nations? Why he appointed *Odo Bishop of Bayeux*, and *William Fitz-Osborn*, both great *Normans*, his *Justiciaries* or *Lieutenants* to Govern the Nation when he returned into *Normandy*, and carried with him all the *Prime Saxon Nobility*, within less then six Months after this very Battle.

Williams
Quarrel was
not Personal
against *Harold*
only.

C

D

E

F

He proceeds, and from King *Williams Coronation Oath*, he will prove what he hath said, to which he may easily receive an Answer from an *English Proverb*, That there is *never an Oath*, but is either *broken or kept*; and his proof from the Conquerors taking an Oath, signifies nothing, unless he can also prove that he kept it. More Conquerors than one, have used *fair pretences*, and made *smooth promises*, and dealt cunningly with the People, to carry on their Designs, and have at first *taken plausible Oaths*, and *broken* them afterwards; nay *took* them, when they *intended* not to keep them, and knew they could not; and for *Oath-breaking*, *Harold* in his Answer to him when he demanded the Kingdom had given him an Example, That *Stultum Sacramentum est frangendum*, a foolish Oath is to be broken: and that is the reason this Author omitted these words in the Answer of *Harold* to *William* before mentioned, lest it should have defeated the force, and consequences of the Dukes Oath, which he intended to make use of, in favour of his Assertion.

The Conque-
rers Oath no
Argument to
prove he was
not a Con-
queror.

Many Specious *Oaths*, *Protestations*, *Vows*, and *Covenants* were contrived and taken by Crafty and Designing Men in the times
F f before

A Digression
about the
Scotch Cove-
nant, &c. and
the Rebellion
raised there-
upon.

before mentioned, and imposed upon the People, contrary to the *Oaths of Allegiance*, they had before taken, for no other ends than to cheat them into Rebellion, and make them the Authors of their own Slavery, which was discovered too late, and when they were under the power of an Army, and could not help themselves.

The same Parliament, (as they called themselves) the very same Lords and Commons, or at least the leading and prevalent Party, and *Oliver Cromwell* and many of his *Caball* into the bargain, that lifted up their hands in the *presence* and *fear* (as they pretended) of Almighty God, and swore to and subscribed (when they wanted the assistance of the *Scots* in the year 1643.) the *Covenant* sent out of *Scotland*, which in the year 1646. when the Kings *Forces* were beaten out of the Field, and most of his *Garrisons* reduced, and he himself forced to fly to the *Scots* Army, and they in a condition to keep in subjection the Nation, and drive the *Scots* out of it, they interpreted according to their own sense and advantage, quite contrary to the *sense* and *meaning* was intended by the *Contrivers* of it, and as the very same Men at first accepted and received it.

(1.) Proposi-
tions of the
Parliament of
England to be
presented to
the Assembly
of *Scotland*,
&c.

In the year 1643. when they were in a *low*, and the King in a *flourishing* condition and like to be successful, on the Tenth of *August* both Houses did desire the Reverend Assembly of *Scotland* to lay seriously to heart, the *state* and *condition* of their *Sister Church* and Kingdom, and not only by their *prayers* to assist in those Straights, but also by such *seasonable* and *effectual* Means, as to them should seem meet, to further and expedite the present aid and assistance demanded by both Houses; and their *Commissioners* were to make known unto them, that they were designed and sent by both Houses, to the general Assembly of the Church of *Scotland*, to propound to them, and consult with them, concerning such things as might conduce to their own Reformation, and their so much desired Conjunction with that Church.

Religion the
the state of
the Cause be-
tween the
King and both
Houses.

And in their *Propositions* delivered to the Assembly on the Fifteenth of the same month and year, they affirm the true state of the Cause, between the King and both Houses, was Religion, in the Reformation whereof they were, and had been so forward and zealous, as that there was not any thing expressed unto them by their Brethren of *Scotland*, in their former or latter *Declarations*, which they had not seriously taken to heart, and seriously endeavoured to effect, that so the two Kingdoms might be brought into a near Conjunction, in one form of Government, one Directory of Worship, one Catechism, &c. and the foundation laid, of the utter extirpation of Popery and Prelacy out of both Kingdoms. The most ready and effectual means whereunto, they conceived to be, that both Nations enter into a strict Union and League according to the desire of the two Houses of Parliament.

The two Hou-
ses at *Westmin-
ster* desire the
Scotch Church
Government,
&c.

On the Seventeenth of the same Month the form of the Covenant, to be entered into by both Nations was agreed unto by the Committees of Estates, and of the general Assembly of *Scotland*, and the Commissioners of the Parliament of *England*, and then it was sent from *Scotland* into *England*, and returned again.

The form of
the Covenant
agreed.

By

By *Directions* of both *Houses*, the *Assembly* of *Divines* in *England* were great *Instruments* in prevailing with the general *Assembly* in *Scotland*, and wrote several *Canting*, *Enthusiastick*, *Hipocritical* *Letters* to them, as that of *Aug. 4.* at *Westminster*, 1643. &c who were called together by special *Contrivance*, and the Men pickt out on purpose to please the *Kirk* and *Brethren* of *Scotland*.

The Assembly of Divines Canting, Hypocritical Letters to the general Assembly of Scotland.

- A The Propositions of *Treaty*, or rather of *Englands* *Yolk* and *Slavery* were agreed upon, and the *Scotch* *Covenant* Received as it was sent from *Scotland*, and the *Articles* Signed the Twenty ninth of *November* 1643. at *Edinburgh*, in which it was agreed and concluded, That the *Covenant* represented to the *Convention* of *Estates* and general *Assembly* of *Scotland*, and sent to both *Houses* of the *Parliament* of *England* in the same form as it was returned, from the two *Houses* of *Parliament* to their *Brethren* of *Scotland*, and allowed by the *Committee* of *Estates*, and *Commissioners* of the general *Assembly*, be sworn and subscribed by both *Kingdoms*, as a most near *Tie* and *Conjunction* between them, for their mutual defence against the *Papists* and *Prelatical* *Faction*, and their *Adherents* in both *Kingdoms*, and for pursuance of the *Ends* expressed in the said *Covenant*.

The Scotch Covenant received as sent from Scotland.

Article I.

- C That an *Army* to this purpose should be forthwith levied, consisting of 18000 *Foot*, 2000 *Horse*, and 1000 *Dragoons*, &c. to have 100000 *l.* advance, and to be paid 30000 *l.* monthly out of the *Estates* and *Revenues* of the *Papists*, *Prelats*, *Malignants*, and their *Adherents*, or otherwise; and if the *States* and *Kingdom* of *Scotland* should demand further satisfaction of their *Brethren* of *England*, when the *Peace* of both *Kingdoms* should be settled, for their pains, hazard, and charges, &c. they should have due *Recompence* made unto them, out of such *Lands* and *Estates* of the *Papists*, *Prelats*, *Malignants*, and their *Adherents*, as the two *Houses* of *Parliament* of *England* should think fit.

Article II. and V. An Army of Scots to be raised in pursuance of the Ends of the Covenant.

To be paid out of Papists, Prelats, and Malignants Estates, &c.

- D That no *Cessation*, nor any *Pacification*, or *Agreement* of *Peace* whatsoever, shall be made, by either *Kingdom*, or the *Armies* of either *Kingdom*, without the mutual *Advice* and *Consent* of both *Kingdoms*, or their *Committees* in that behalf appointed, who are to have full power for the same, in case the *Houses* of *Parliament* in *England*, or the *Parliament* or *Convention* of *Estates* in *Scotland* shall not fit.

Article VIII.

A Committee to have the power of Parliament when they sit not.

- E The *Covenant* it self had this Title. *A Solemn League and Covenant for Reformation and Defence of Religion, the Honor and Happiness of the King, and the Peace and Safety of the three Kingdoms of England, Scotland, and Ireland*

The Title of the Covenant.

- F The first, second, and third *Articles* of the *Covenant* were, That they which did take it, should sincerely, really, and constantly, through the *Grace* of *God*, endeavour in their several places and callings, the preservation of the *Reformed Religion* in the *Church* of *Scotland*, in *Doctrine*, *Worship*, *Discipline*, and *Government*, the *Reformation* of *Religion* in the *Kingdoms* of *England* and *Ireland*, in *Doctrine*, *Worship*, *Discipline*, and *Government*, according to the *Word* of *God*, and the *Example* of the best *Reformed Churches*: and should endeavour to bring the *Churches* of *God* in the three *Kingdoms* to the nearest *Conjunction*, and *Uniformity* in *Religion*, *Confession* of *Faith*, *Form* of *Church Government*, *Directory* for *Worship* and *Catechizing*.

The Contents of the Covenant.

Secondly, That they should without *respect* of Persons, endeavour the *Extirpation* of *Popery*, *Prelacy*, (that is *Church Government* by *Arch-Bishops*, *Bishops*, *Deans*, and *Chapters*, *Arch-Deacons*, &c.) *Superstition*, *Heresie*, *Schism*, *Profaneness*, and whatsoever should be found to be *contrary* to sound *Doctrine* and the *power* of *Godliness*.

Thirdly, That they should with the same *sincerity*, *reality*, and *constancy*, in their several *Vocations* endeavour, with their *Lives* and *Estates*, mutually to preserve and defend the *Kings Majesties Person* and *Authority*, in the *preservation and defence of the true Religion* and *Liberties of the Kingdoms*, that the World might bear *Witness* with their *Consciencies* of their *Loyalty*, and that they had no *thoughts* or *intentions* to *diminish* his Majesties *just power* and *greatness*.

And Article the Sixth, That they should in their Places and Callings, in that *Common Cause* of *Religion*, *Liberty*, and *Peace* of the Kingdoms, *assist and defend all those that did enter into that League and Covenant in the maintaining and pursuing thereof*, and should not suffer themselves *directly or indirectly* by whatsoever *Combination*, *Perswasion* or *Terrors*, to be *divided* or *drawn* from that *Blessed Union* and *Conjunction*, whether to make *defection* to the contrary part, or to give themselves to a *detestable Indifferency* or *Neutrality* in that *Cause* which so much concerned the *Glory* of *God*, the good of the Kingdoms, and Honour of the King.

This *Covenant* was agreed to by the two Houses in *England* before the Twenty ninth of *August* next following, as appears by (2.) *Husbands Collections*. There was a *Declaration* of both Houses for the Members that were in the *Army* to take the (3.) *Covenant*, another *Ordinance* *October* the Tenth, for divers *Soldiers* to take it at (4.) *St. Margarets Westminster*, and another for the same purpose (5.) *December* the Twelfth; so forward and zealous were the two Houses to humour and please the *Scots* at that time, that they caused the *Covenant* to be taken by their *Army Officers*, before the *Articles* of *Treaty*, to pursue the Ends of it were *Exchanged*, and *Signed* in *Scotland*.

An *Ordinance* of both Houses, (6.) That all *Officers* of the *Law* shall take the *Covenant* or lose their *Offices*, that no *Practising Lawyers*, *Serjeants*, *Barristers*, *Attorneys*, *Solicitors*, *Clerks*, &c. shall be admitted to *Plead* or *Practise*, unless they take the *Covenant*.

The (7.) *Declaration* of the Kingdoms of *England* and *Scotland* of the same date, joined in Arms for the *vindication* and *defence* of their *Religion*, *Liberties* and *Laws*, against the *Popish*, *Prelatical*, and *Malignant Party*, by the *Honourable Houses* of the *Parliament* of *England*, and the *Honourable Convention* of *Estates*; In which they say this *Covenant* was *Gods Covenant*, that he would never have put it into the hearts of both Nations to have *Sworn* and *Subscribed* it, if he had been minded to destroy them; and that the *War* in which both Nations were so deeply engaged, was of *God*. They are their own words.

They also declare, (8.) That *Neutrality* and *Indifferency* in the time of danger of *Religion*, was a thing detestable to *God*; that such as have been *Neutralists* or *indifferent* in the times of *Civil Division* and danger of the *Common Wealth*, have been in all Nations severely punished, as pernicious and publick *Enemies*, and therefore they gave publick warning to such Persons to rest no longer upon their *Neutrality*, or

(2.) f. 312.

(3.) Ibid. f.

327. Sept. 20.

(4.) Ibid. f.

359.

(5.) Ibid. f.

399.

(6.) Ibid. f.

416. Jan. 30.

1643.

The Covenant enjoined.

(7.) Ibid. f.

417.

They call it Gods Covenant.

(8.) Ibid. f.

418.

Neutralists to be punished as publick Enemies.

or to please themselves with the *naughty* and *sloathful* pretext of *indifferency*, but that they *address* themselves speedily to take the *Covenant*, and join with all their power in the *defence* of that Cause against the *Common Enemy*, otherwise, they do declare them to be *publick Enemies* to the *Religion* and *Country*, and that they are to be *censured* and *punished*, as *professed Adversaries* and *Malignants*. They are their own words.

A

And they did further declare, (9.) That the *whole Estates real and personal, moveable and inheritance* of *such to be seized by Sequestrators, and the Rents to be by them received, and the Goods and Chattels sold*; and there are many hundreds, if not thousands yet living, that have known, and seen Ministers in all Countries turned out of their Livings, and Laicks out of their Estates, and their Goods seized by *Sequestrators*, and appraised by *Apprayors* of their own appointment, and sold before their faces, for refusing to take this *Covenant*, and being *Rebels*.

B

Febr. 2. An (1.) Ordinance of the two Houses enjoining the taking of the *Solemn League and Covenant* throughout the Kingdom of *England* and *Wales*, with *Instructions* and an *Order*, that the *Assembly* of *Divines* do prepare an *Exhortation* for the better taking of it; and that that *Exhortation* and (2.) Declaration of the Kingdoms of *England* and *Scotland*, joined in *Arms* for the *vindication* and *defence* of their *Religion, Liberties, and Laws*, against the *Popish, Prelatical, and Malignant Party*, and passed the *Thirtieth* of *January* last, be publicly read, when the *Covenant* is read, and also that the *names* of such as *refused* it, should be *returned*, to the *Committees* in each *County*, and by them to the *Houle* of *Commons*.

C

D

The King by his Proclamation dated at *Oxford*, *October* 9. the same year, prohibited the tending and taking of this *Covenant*, reciting, that the *Commons* had ordered it to be *Printed* and *Published* on the *Twenty first* of *September* then last past, being in *truth*, as the *Proclamation* sets forth, nothing else but a *Traiterous* and *Seditious Combination* against him, and against the *Established Religion*, and *Laws* of the Kingdom, though it seemed to make *Specious Pretences* of *Piety* and *Religion*. We shall not here examine the *wickedness* and *impiety* of this (as they called it) *Holy Union* and *Covenant*, nor the *blasphemous* Expressions which were consequential to, and fixed upon it, of *Gods Covenant*, and *Gods War*, which was undertaken in pursuance of the *Ends* of it, but see how they *observed such ends, meanings, and intentions*, as might fairly be deduced from the words and tenor of it.

E

F

When the King was in the *Scots Quarters* in the Months of *October* and *November* 1646. there arose a *Dispute* between the two Houses and the *Scots Commissioners*, (3.) who had the *Interest* in disposing the *Person* of the King, the *Scots* claimed a *joint Interest* with the *English*, and the *Commons* affirmed the Kingdom of *Scotland* had no right of *joint Interest*, in disposing of the *Person* of the King in *England*, when indeed neither had right or interest in disposing of his *Person* legally, for *right* to do that implies a *superiority* and power of the *Disposer*, over him that is to be *disposed* of, either by just

Dominion

(9.) Ibid. f. 49. and f. 220. n. 6, 7.

(1.) Ibid. f. 420. The Covenant enjoined to be taken by all.
(2.) Ibid. f. 421.

The King by Proclamation prohibits the taking of the Covenant.

A Dispute between the two Houses and Scotch Commissioners, &c.

(3.) The Answer of the Commons to the Scots Commissioners Papers of the 20th and 24th of Octob. Printed by order of the Commons November 28. 1646.

(4.) A Declaration of the Practices and Treasons of Robert Earl of Essex and his Complices, together with his Trial Printed by the Queens Printers and Order, 1601. The Judges Opinion in two Points of the Earl of Essex his Treason against Queen Elizabeth.

(5.) Bakers Chron. f 568. col. 2.

The Scots sell their King.

The Commissioners names that received the King.

(6.) His Message to both Houses from Holdenby, May 12. 1647.

Presbyterian Practices.

Dominion and Sovereignty, or Direction of the Law, and in this case there was neither of these to be pretended unto, for the *dominion* and *power of the Sword* gained by Rebellion, under which the King then was, is no just Dominion; besides this Reason, the Judges above fourscore years since, in the Case of the (4.) Earl of Essex his *Rebellion and Treason* against Queen Elizabeth, delivered their Opinions for matter of Law in two notable Points concerning the like actions and behaviour of Subjects towards their King, as was in this case.

The first, That in Case where a Subject attempts to put himself into such Strength as the King shall not be able to *resist* him, and to *force and compel* the King to *govern* otherwise, then according to his *own Royal Authority and Direction*, it is manifest Rebellion.

Secondly, That in every Rebellion, the *Law intendeth as a Consequent*, the *compassing the death and deprivation of the King*, as foreseeing, that the *Rebell* will never suffer that King to live or Reign, which might *punish* or take *revenge* of his *Treason and Rebellion*.

'Tis more then probable this *Dispute* was not in earnest, and but only a *blind* to what followed soon after; (5.) for before, or rather at the very time of it, they agreed with the two Houses upon *Terms* for their marching out of *England*, by which Agreement they were to have 200000 l. paid upon the *delivery of Newcastle, Berwicke, and Carlisle* to the Parliament, and *two hundred thousand* more secured to them upon the Publick Faith of the Kingdom. The first Payment was made at *Newcastle* according to Contract, and thereupon they delivered the King to the *Earls of Pembroke and Denbigh, the Lord Montague, Sir James Harrington, Sir John Holland, Sir Walter Earl, Sir John Cook, Mr. Crew, and Major General Brown*, who were *Commissioners* appointed by the Parliament to receive him. The Scots march out of *Newcastle*, Febr. 6. and the King two days after with these Commissioners set forward toward his House at *Holdenby* in *Northamptonshire*, where he arrived on the Sixteenth of that Month, and was (6.) kept *close Prisoner several Months*, his servants were *denied access to him*, none but the Commissioners or who they pleased were permitted to converse with him, nor were any Letters to be given to, or received from him, and he was in that distress and affliction *denied the use and assistance of his own Chaplains*, Men of Exemplary Piety and sound in the Protestant Religion.

They were the *same two Houses*, and the *same Scots* that did these things, which *entred* into a *Solemn League and Covenant*, for *Reformation of Religion, the Honor and Happiness of the King, &c.* that sware they had no thoughts or intentions to diminish his Majesties just Power and Greatness.

They were the *same two Houses*, or at least the leading and prevailing Party in them, and their *same Neutral Followers*, that while he was their *Prisoner*, always sent *unreasonable Propositions* to him, to which he could not consent, without *disclaiming his Reason, violating his Conscience, and destroying the Religion and Government* then by Law Established.

They were the *same two Houses* as before, that on the 'Twenty fourth of *December 1647*. sent *four Bills* to the King to the *Ile of Wight* to be passed, as *previous* to a Treaty, by which he was to unking himself, allow and confirm all they had done, and give them all the power of the Kingdom, together with *three and twenty Propositions*,

tions, (whereof the Fourteenth was that an *Act* might be passed for the settling of the Presbyterian Government and Directory) which upon the passing of those Bills were to be treated of.

A They were the same Presbyterian Covenanting two Houses, that on the Fifteenth of January next following, reciting they had received an absolute Negative to the four Bills, (which as they affirmed contained only matter of safety and security to the Parliament and Kingdom) passed the following Votes.

Resolved upon the Question, That the Lords and Commons do declare, that they will make no further Addresses or Application to the King.

Resolved upon the Question, by the Lords and Commons Assembled in Parliament, That no Application or Address be made to the King by any Person whatsoever, without the leave of both Houses.

B Resolved upon the Question, by the Lords and Commons Assembled in Parliament, That the Person or Persons that shall make breach of this Order, shall incur the Penalties of High Treason.

Resolved upon the Question, That the Lords and Commons do declare, that they will receive no more any Message from the King, and do injoin that no Person whatsoever, do presume to receive, or bring any Message from the King to both, or either Houses of Parliament, or to any other Persons.

C These Votes were the Grounds and encouragement of that Long, Bloody, and Execrable Remonstrance of the Lord Fairfax General of the Parliaments Forces, and of the General Officers held at St. Albans the Sixteenth of November 1648. presented to the Commons Assembled in Parliament the Twentieth of that Month, dated at St. Albans the Eighteenth, and Signed John Rushworth, as they do confess in the 52^d, 53^d, and 60th pages of the same; in which they propound, move for, and press openly the Murther of the King, and the Alteration of the Government.

The Commissioners of the Kingdom of Scotland put forth an Answer to both Houses of Parliament upon these new Propositions of Peace and four Bills, before they were sent to his Majesty, and at the (7.) conclusion of it they set down their Desires, the chief of which were.

E First, That in stead of sending Propositions, there might be a Personal Treaty with his Majesty at London, and that he to that end might be * invited to come thither with Honour, freedom and safety.

Secondly, That the Honourable Houses, according to the Solemn Vows, Treaties, Declarations and Engagements between the two Kingdoms, would after so very long delay, Establish the Solemn League and Covenant, and that his Majesty be desired to give his Royal Assent, for confirming the same by Act of Parliament in both Kingdoms.

F Thirdly, That the settling Reformation of, and Uniformity in Religion according to the Covenant in England and Ireland, be likewise desired in these new Propositions; and in particular, that the Confession of Faith, Directory of Worship, Form of Church Government, and Catechizing, agreed upon by the Assembly of Divines, and presented to the Houses, be Established.

Fourthly, That by Act of Parliament effectual Course be taken, for suppressing Blasphemy, Heresie, Schism, &c.

Fifthly,

Presbyterian Votes for no more Addresses to the King.

The Grounds of the Bloody St. Albans Remonstrance.

There were several Papers dated at St. Albans of this nature.

The Scotch Commissioners Answer their Propositions and four Bills.

(7.) p. 25, 26, 27.

They propound a Personal Treaty.

* Page 5. And the Establishment of the Covenant.

And Disband-
ing of the
Army.

And restoring
the King to
his Power
and Govern-
ment.

The Lords
and Com-
mons publish
a Declaration
against this
Answer.

(8.) Page 20.
The Heads of
that Declara-
tion.
(9.) Page 21.

(1.) Page 21.

(2.) Page 27,
28, 70.

(3.) Page 8.

(4.) Page 86.

(5.) P. 29, 30.

(6.) Page 34.

(7.) Page 37.

(8.) Page 43.

(9.) From p.
50, to 55.

Fifthly, That the *Armies* in both Kingdoms, which were raised for *Preservation* and *Reformation* of Religion, and for defence of the Kings Person, and safety of the Kingdoms, be not kept up to hinder *Reformation* of Religion, and the King from his Government, and to be a burthen to the Subjects since the War was ended, but that they might have due satisfaction of their Arrears, and be Disbanded.

Sixthly, That the King be restored to his Rights or Revenues, and particularly, that the Crown be not excluded from the power of making *Laws*, which is as *Essential* to Kings, as to govern by *Laws*, and sway the Scepter; nor from the power of the *Militia*, without which they can neither protect their Subjects, oppose their and the Kingdoms Enemies, nor keep friendship with their Allies.

Concerning this Answer, and these Desires, the Lords and Commons Assembled in Parliament set forth a Declaration, and order it to be Printed and Published, March 4. 1647.

Wherein they declare, (8.) they cannot admit of a *Personal Treaty*, unless they resolved to be treated out of all they had fought for, and to be treated out of what they could not be fought out of; That the Scots (9.) Commissioners mistake their aim, if they think the Kings presence with the Parliament, necessarily implieth his presence at London, which the King and they so much desired, that he might have opportunity to cajole the Citizens. They also mistake the Parliaments (1.) Declarations, if they thought it was the Kings local absence from his Parliament, which they declared to be the chief cause of all the War, Mischief, and Calamities of the Kingdom, any otherwise than it was in order to his distance in Affections, and his oppositions in their Councils, and endeavours to destroy them; and yet in their Declaration of Sept. 11. 1642. they say, that if his Majesty would then be pleased to come back to his Parliament without his Forces, that they should be ready to secure his Royal Person, Crown and Dignity, with their Lives and Fortunes, his presence in that great Council being the only means of any Treaty betwixt his Majesty and them with hope of success: this they own here pag. 26. and in their Answer to the Scots Papers about their interest in disposing of the Person of the King, pag. 66. but say nothing of moment to it in either place, this is certainly a Local, Personal Presence here meant; That they were to have (2.) satisfaction and security, safety and security granted by the King, (by which they mean the four Bills passed) before they treated or sent Propositions after the War; That the King (3.) could grant no more than what they had, (meaning his Royalties, Power, and Government) which they had usurped by Violence and the Sword; That it would be base and dishonourable for them in that (4.) Condition to treat under the Gallows, to treat as Traytors, their Cause being not justified, nor the Declarations against them as Rebels recalled.

Concerning Religion, (5.) they declare they could never find that Church Government in a Presbyterian way, was necessary by any Divine Right; That the Scots (6.) framed and devised the Covenant; They (7.) confess (speaking of the Solemn League and Covenant, and the things contained in it) that the state of many Questions, at that time, which went under the notion of Religion, was indeed a contest only of Power and Dominion, as it had been of old between the Clergy and King, or Temporal Estate; Punishments and Censures Ecclesiastical, or the Scots Discipline (8.) they call Popish and Prelatical Principles, and Apologize for Sectaries and Hereticks, (9.) Anabaptists, Antinomians, Familists, Shakers, &c.

A

B

C

D

E

F

Con-

Concerning the Militia and Disbanding the Army they (1.) declare; *That the Militia was the Foundation of their Security, and the Principal immediate Ground of the Quarrel, in order to the Preservation of Religion, and the just Rights and Liberties of the People. That (2.) Laws signifie nothing without the Militia by Sea and Land; The Parliament of no Authority, without the Power of the Sword, when by the Power of the Sword, it shall be opposed, affronted, resisted, their Summons scorned; their Messengers kick'd about the Streets, and their Votes and Judgments derided. That Freedom but imaginary Freedom, that hath no other than Paper or Parchment Walls at the best to defend it. That the (3.) Army or Forces were not to be Disbanded, but when the Two Houses should think it fit and safe, nor so long as it should be thought necessary to keep them up, for the maintaining of privilege of Parliament, the Liberty of the Subject, and Protestant Religion, and for the Parliaments consulting freely and acting securely.*

(1.) p. 68.

(2.) p. 70, 71.

(3.) p. 73, 82.

They term the common People which flocked about the Parliament Doors, and Avenues of the Houses in July Preceding, a (4) Tumultuous Rabble. The Traiterous Engagers and Leviers of a new War, when they petitioned and cryed out for the King to come to *London*, and for a Personal Treaty; when as such a sort of People, or it may be of a meaner and worse condition in the years 1640 and 1641. were countenanced, encouraged and applauded a long time together by these very Houses, when they cryed out against Bishops, and for Justice, or whatever else they would have them. (5.) They were owned as Friends and well-affected, and their Courage, Zeal, and Industry commended: nor could any Declaration from the Bishops, concerning their Insolencies and Assaults, nor from other Lords or Gentlemen of Honor, nor from the King himself take place, for the due Suppression of those Tumults, and securing their Freedom in Parliament, or Persons in the Streets.

(4.) p. 61, 73, 74.

(5.) ΕΙΧΩΝ
ΒΑΣΙΛ. C. 4.

They further declare, That (6.) by Defence of the Kings Person and Authority, in the Preservation of the True Religion and Liberties of the Kingdoms, (that is, what they should think or declare to be the True Religion, and the Liberties of the Kingdoms) they meant, that such Religion and Liberties were first to be had and obtained, before any consideration was to be had of the Kings Person and Authority, and no otherwise.

(6.) p. 73.

This long Digression hath been made, to demonstrate, that Designing mens Consciences do vary and change according to the Difference of Times, Emergencies of Things, and the Conditions of Affairs; and that the Heads especially and chief of them, before they enter upon the Method they propound to themselves, do know they must, and do intend, *To promise falsely, protest falsely, vow falsely, Covenant falsely, ingage falsely, associate wickedly and falsely, swear falsely, pretend to Religion and Piety falsely, Petition falsely, declare falsely, remonstrate falsely, draw up and publish the State of the Nation falsely, calumniate falsely, asperse the Government, Governors, and Ministers falsely.* That they may Cheat the People, raise Discontents, affright and bring them wholly under their Direction and Guidance, and make them Authors of their own Slavery, while they Usurp an Arbitrary boundless Power and Dominion over them, by

The reason of
the Digression

monstrous *Hypocrisie* and *Imposture*, and maintain such *Usurpation* by that *very force* and *Armes*, with which the *Deluded* and *Abused* People at first *furnished* them; and when they have obtained force enough to defend themselves, they will then expound and interpret their own *Declarations*, and put what *meaning* upon them they please, though not reasonably warranted by the words themselves.

But to return to the *Oath* of the *Conqueror*, neither *Pictaviensis*, *Eadmerus*, *Ordericus Vitalis*, *Hen. of Huntingdon*, or *Mat. Paris* do write of any taken by him: *Florence of Worcester* is the first that mentions it, and *Simeon of Durham*, and *Roger Hoveden* transcribed it from him. The words of the *Oath* were, (7.) *Se Velle Sanctas Dei Ecclesias ac Rectores earum Defendere, necnon & cunctum populum, sibi subiectum juste ac Regali providentia Regere, rectam legem statuere & tenere, Rapinas injustaque Judicia, penitus interdicere.* That is, that he would defend the *Holy Churches* of God, and the *Governors* of them, also that he would Govern all the People subject to him, justly, and with a *Royal Providence*, that he would make and keep right *Law*, and totally prohibit *Rapines* and unjust *Judgments*.

This *Oath* was conceived in general words, and such as were of a great *Latitude*, and he might by the *Power* and help of his *Sword*, expound or interpret them in almost what sense he pleased, and make them far more easily correspond with his *Actions*, than if it had consisted of many strict *Particulars*. Our Author hath added one * extraordinary necessary Article at that time, as he says, to this *Oath*, which is, *Quod aequo Jure, Anglos & Francos Tractaret.* He hath it out of *Malmsbury*, who relates the *Transaction* thus; (8.) *Exhortatus Aldredus Consecrationem egit, exacto prius coram omni populo Jurejurando, quod se modeste erga subiectos ageret, & aequo Jure Anglos, quo Francos tractaret: Aldred* being exhorted to it, *Crowned William*, first having exacted an *Oath* from him, that he would modestly or moderately behave himself towards his *Subjects*, and that he would treat or rule the *English* and *French* with the same equal *Law*; which notwithstanding he behaved himself so severely and rigorously toward the *English*, as the old Archbishop *Aldred* (9.) cursed him and his *Progeny* for it, and presently after died with grief. This last part of the *Story* is left out, he well knowing it would have destroyed his whole *Argument* from the *Coronation Oath* of King *William*, as being a pregnant *Testimony* that he never kept it.

Lastly he pretends to *Evidence* demonstrably, that it was not so much *Conquest* that King *William* the First relied upon, when he was settled in this *Imperial Throne*, as his *Claim* to the *Crown* of *England*, *Jure Hereditario*, by Right of *Inheritance*, from some of his own *Charters*, and some of his Son *William's*, and others of *Henry* the First.

This *Hereditary Right* was only the *Donation* of *Edward* the Confessor, as Mr. (1.) *Selden* explains it, and there admits and approves it as a lawful *Title*, from whom our Author had this *Argument*,

(7.) Flor. Wigorn. fol. 635. Et Jus Angl. ab antiq. p. 46. The Conqueror's Oath.

* Arg. Antinorm. p. 13. & Jus Angl. ut supra. (8.) Malmsb. fol. 154. b. n. 10

(9.) Ibidem. Archbishop Aldred cursed King William.

Arg. Antinorm. p. 18.

(1.) Review of Tiches, p. 482, 483.

ment, and almost all others; and the Conqueror was no more than Epistolary or Testamentary Heir to that King, as appears by what hath been said before concerning his nearness by Blood to the Confessor, and Queen *Emme*; and is farther evidenced from the Charters which he cites, and some others; as in his fourth instance; *Regnum mihi cum providentia Dei destinatum, & Beneficio cognati mei Gloriosi Regis Edwardi Concessum*: The Kingdom designed to him by the Providence of God, and granted to him by the Beneficence of his Glorious Kinsman King *Edward*. In a Charter of Priviledges to *Bury Abbey*, the Conqueror says he was Heir to the Kingdom by *Kinred* and the Gift of King *Edward*, (3.) *Illustris Edwardi, cujus miseratione Domini, genere & Dono in Regno sumus heredes*; in his eighth instance it is yet more clear, where he hath mistaken *Henry* the First, for King *Stephen*, whose Charter of Priviledges to *Westminster Abbey* begins thus; (4.) *Stephanus Dei Gratia Rex Anglorum, &c. Sciatis me pro Redemptione animæ meæ, & Patris & Matris meæ, necnon & Beata Memoria Regis Edwardi cognati mei; Qui avum meum, liberosque illius in Regnum suum adoptivos heredes instituerat, &c.* from whence it is plain, what his Hereditary Right was, but whether he relied more upon that, than his Sword and Conquest, is left to every indifferent Reader to judge upon what hath been said, and shall be further delivered in the ensuing answer.

The Conqueror had only an Epistolary Right.
(2.) P. 19.

(3.) Monast. Angl. vol. 1. fol. 289. n. 50

(4.) Ex Autograph.

In the close of his Answer to this first Question, he saith, (5.) that he hath with a Three-fold Cord, not easily to be snapt asunder, bound hard his Assertion, that *William* came to the Crown by the * Election and consent of the Clergy and People, and that *Fædus Pepigit*, he made a Solemn Covenant with the *English*, to observe and keep those Laws which were *bonæ & approbatæ & antiquæ leges Regni*, the good approved ancient Laws of the Kingdom. Whether he hath twisted such a Cable as he speaks of, is also left to the Readers Judgment.

(5.) Antinorm. P. 22.

* *Fus Angl. ab Antiq.* p. 56, 57, 58. He kept this as well as the Parliament kept the Solemn League and Covenant

But what work doth this small *Scrap-monger* make with these two words, * *Fædus Pepigit*, without mentioning the Author from whence he had them, which I shall cite for him, with the Sentence preceding and following, and give him leave to make his advantage of them, (6.) *Comes Gulielmus, Suthregiam, Middlesexoniam, Hartfordensem provinciam devastabat, & villas cremare, hominesque interficere, non cessabat, donec ad villam Beorcham veniret; Ubi Adeldredus Archiepiscopus, Wolstanus Wigorniensis Episcopus, Clito Edgarus, Comites Edwinus & Morcarus, & de Lundonia quique Nobiles, cum multis aliis ad eum venerunt, & datis obsidibus, illi Deditionem fecerunt, fidelitatemque juraverunt, cum quibus & ipse Fædus Pepigit, & nihilominus exercitui suo, villas Cremare, & Rapinas agere permisit. Appropinquante igitur, Dominicæ Nativitatis Dominicæ Festivitate, cum omni exercitu, Lundoniam ut ibi in Regem sublimaretur, adiit.* Earl *William* wasted *Surrey*, *Middlesex* and *Hartfordshire*, burnt Towns and killed Men, until he came to the Town of *Beorcham* where *Aldred* the Archbishop, *Wulstan* Bishop of *Worcester*, Prince *Edgar*, the Earls *Edwin* and *Morcar*, and the Nobility from *London*, with many others, came unto him, and having given Hostages, submitted and swore Fealty to him, with whom he entred into Conditions, and granted them terms of

* *ibid.* & *Fus Angl. ab antiq.* p. 45, 58. in margine.

(6.) *Flor. Wigorn.* fol. 634, 635.

The same words in *Simon Darelms.* col. 195. n. 30. Also the same words in *Hoveden*, fol. 258. a. lin. 1. &c.

William's behaviour before he was Crowned, which was done by assistance of his Army.

These words
*bonæ, antiquæ
& approbatæ
leges*, belong
to the Story
of Abbat Fre-
derick of St.
Albans, of
which in the
second Que-
stion.

Peace, and never the less he permitted his Army to burn Towns, and commit Rapine; and *Christmas* approaching, he went to *London* with all his Army, that he might be made King. Here is no Election, no consent of the People, no Bargain stricken, or Covenant made, to observe and keep the Laws, which were *bonæ & approbatæ leges Regni*, as this Writer falsely insinuates. But on the contrary here is the Submission of the People, the Behaviour of a Conqueror, Hostages taken, Towns burnt, Rapine committed, and he himself made King by the influence of an Army. Thus much for his pitiful Assertions and Arguments, in Answer to his first Question.

A

The Second Question is.

Antinorman.
P. 23.

Whether the first *William* did abolish all the *English* Laws, and changed the whole Frame and Constitution of the Government.

B

The State of
the second
Question mi-
staken.

No man that I know, ever made the Affirmative part of this Question his Assertion; he hath here again mistaken the State of it; for it ought to have been put, whether in his Reign and Government he used only the *English* or *Saxon* Laws, and brought in no other, by which he governed the Nation.

C

(7.) Lib. I. c. 29

Gervase of Tilbury is full and clear in this Point, who from *Henry* Bishop of *Winchester*, Brother to King *Stephen*, and Grandchild to the Conqueror, a great Officer in the Exchequer, tells us what Law he established, and by what Law he ruled, (7.) *Cum Insignis subactor Angliæ Rex Gulielmus, ultiores Insula fines suo subjugasset imperio, & Rebellium mentes, terribilibus perdomuisset exemplis, ne libera de cetero daretur erroris facultas, decrevit subjectum sibi populum, Juri scripto, legibusque subicere. Propositis igitur legibus Anglicanis, secundum tripartitam earum distinctionem, hoc est Berchenlage, Denelage, & West-Saxenlage, quasdam reprobat, quasdam autem approbans, Transmarinas Neustrie, i. e. Normanix Leges, que ad Regni pacem tuendam efficacissima videbantur, adiecit.* When the Famous Subduer of *England* King *William*, had subjected to his Empire the utmost parts of the Island, and by terrible examples had brought to perfect obedience the minds of Rebels. That they might not have liberty of falling into the same Errors for the future, he resolved to govern the People subjected to him by written Right and Law. Therefore the *English* Laws being propounded according to their Three-fold Distinction, that is, the *Mercian-Law*, *Dane-Law*, and *West-Saxon-Law*, he rejected some, and approved others, and added such *Transmarine Norman Laws*, as seemed most efficacious, for to defend the Peace of the Kingdom; and as to Matter of Fact, the Reader is referred to the Preface of the *Norman* History, where he will find it fully proved, that the Law used in this Nation after the Conquest, especially as to the Method and Practice of it, was the *Norman* Law, and so remains to this day in very many things.

D

E

F

What Law
William esta-
blished.

But

But that no Cavils may remain unsatisfied, I shall give a particular answer to every thing that is said in this Treatise, and in all others I have met with.

A He begins to (8.) prove the Negative of this Question, by the Authority of Sir Edward Coke, (9.) who says, the Grounds of our Common Laws at this day, are beyond the Memory or Register of any beginning, and the same which the Norman Conqueror found within this Realm. The contrary to this Assertion is made Good against him in the Preface to the Norman History before cited, whither I refer the Reader. But how will he reconcile Sir Edward to Sir Edward, when he says in the same Preface, that Original Writs are the Foundations whereupon the Law dependeth; and I think it will easily be granted, that these are no where to be found before the Conquest, and that they are neither beyond the Register of beginning, nor that the Conqueror found them here. Again in his Preface to his eighth Report, he says that the whole Frame of the antient Common Laws of this Realm do in effect appear in the Mirror of Justices, and that therein may perfectly and truly be discerned the whole Body of the Common Laws of England. Can a Frame or Body be without Grounds or Foundation, and the Frame, Method and Form of most of the Authentick (1.) Laws in that Book was establish'd since the Conquest; and can any one think it was done without Ground or Foundation?

D The next * Proof he brings to make good the Negative of this second Question, is the Title of the Laws attributed to the Conqueror in Selden's Notes upon Eadmer, fol. 173. *Ces sont les lois & les Custumes que li Reis William grantut à tut le peuple de Engleterre, apres le Conquest de la terre, Ice les meisnes que le Reis Edward son cousin tint de vant li.* These are the Laws and Customs which King William granted to all the People of England after the Conquest of the Land. The very same which King Edward his Cousin held before him.

E This is the Title to the same Laws for which he cites Ingulphus Abbot of Croyland, page 29. and those he brought with him from London to that (2.) Monastery; the Laws of most Just King Edward, which his Lord the Renowned King William would have perpetual and Authentick, and by Proclamation had commanded they should be kept, under most grievous pains, through the whole Kingdom, and had recommended them to his Justices, in the same Language in which they were published, lest it might happen, through ignorance, any one might go contrary to, or by a rash Act offend his Royal Majesty, and so incur the most Rigid Censures contained in them. The words of Ingulph are these, *Attuli eadem vice mecum Londoniis in meum Monasterium Leges aquissimi Regis Edwardi, quas Dominus meus inclytus Rex Willielmus Authenticas esse & perpetuas per totum Regnum Angliæ, inviolabiliter tenendas sub penis Gravissimis proclamarat & suis Justitiariis commendarat, eodem Idiomate quo Editæ sunt; ne*

(8.) Antinorman. p. 23.

(9.) Preface to his eighth Report.

The Grounds and Foundation of the Common-Law

(1.) See Preface to the Norman History.

* Antinorman. p. 24.

The Title of King Williams Laws.

(2.) Seld. Not. ad Eadm. fol. 172. n. 40, 50. Ingulph. Histor. b. Croylan. fol. 519. b. n. 30, 40.

Ingulph Abbat of Croyland, brought King Williams Laws from London.

per Ignorantiam contingat nos vel nostros aliquando in nostrum grave periculum, contraire & offendere ausu temerario Regiam Majestatem, ac in ejus Censuras Rigidissimas, improvidum pedem ferre contentas sepius in iisdem.

(3.) Ingulph.
Hist. fol. 516.
b. n. 10. 20.
(4.) Little
Doomesday-
Book, f. 450. a.

Most of them
were Penal
Laws.

These Laws *Ingulph* brought from *London* in the Twentieth, or last year but one of the Conqueror, for at the same time he brought with him a Copy of a Survey of all the Lands belonging to his Monastery, out of (3.) *Doomesday* Roll or Book, which was not finished until that year, as appears at the end of the Description of *Essex*, *Norfolk* and *Suffolk*, (4.) *Anno 1086. ab incarnatione Domini, vicesimo vero Regni Willielmi, facta est ista Descriptio, non tantum per hos tres Comitatus, sed etiam per alios*; and this in a hand as antient as that of the Survey it self is written in; by this it appears, these were only the allowed Laws of King *Edward*, which were permitted to be used, and had the Authority of Law, 'tis not probable he published any other afterward, for within a very small time, he went into *Normandy*, where he died. They were in number Fifty, most Penal Laws, as appears by *Ingulph*, and the Laws themselves, from which he received much profit and advantage from the many and great Mults imposed upon the People, for the various Transgressions of them. And the others of small moment, and no ways inconsistent with King *William's* Establishment, most of which were taken out of the *Saxon*, some out of the *Danish* and Feudal Law.

(5.) Not. ad
Eadm. fol. 189.
n. 30.

(6.) Lamb. Archion. fol. 170.

But besides these received from King *Edward*, and published with his Approbation, and by his Command, there were others attributed to King *William*, which Mr. *Selden* subjoyns to the Laws taken from the *Crowland* Copy: (5.) *Atqui Complures alie, vetustis Schedis Gulielmo Regi tributa, prater eas Edwardo Regi accepto latas, reperiuntur, quarum hasce subjungere visum est, &c.* The very same Laws with small variation, are published by Sir *Roger Twisden*, as he (6.) found them in the Red Book in the Exchequer, which he thought the most Authentick Exemplar, and placeth them likewise immediately after the *Crowland* Copy, published by himself.

The additional
Laws to
King *Edwards*
for the esta-
blishment of
King *William's*
Government.
(7.) Lambard.
Arch. fol. 170.
Seld Not. in
Eadm. fol. 190.
n. 10.

Amongst these last mentioned Laws, there are some, which at that time without doubt were thought very efficacious for the Preservation of the Peace, and the Establishment and Government of King *William*, which *Gervase Tilbury* says, were added to the *Saxon* Laws. The first is (7.) Law the 52th. Tit. *De fide & obsequio erga Regem, Statuimus etiam ut omnes liberi homines federe & Sacramento affirment quod intra & extra Regnum Angliæ, (quod olim vocabatur Regnum Britannia) Willielmo Regi Domino suo fideles esse volunt, Terras & honores illius omni fidelitate servare cum eo & contrare inimicos & alienigenas defendere.* We do appoint and ordain that all Free-men may by League and Oath affirm or make good, that within and without the whole Kingdom of *England*, (which was antiently called the Kingdom of *Britain*) they will be faithful to their Lord *William*, and by their Fealty will preserve his Lands and Honors every where with him, or in his Possession, and defend them against his Enemies and Strangers.

The

The (8.) Second Law is the 55th.

(8.) Ibidem.

De Clientelari, seu Feudorum Jure, & Ingenuorum immunitate.

A *Volumus etiam ac firmiter precipimus, & Concedimus ut omnes liberi homines totius Monarchiæ Regni nostri prædicti, habeant & teneant terras suas, & possessiones suas, bene & in pace, libere ab omni exactione injusta, & ab omni Tallagio, ita quod nihil ab eis exigatur, vel capiatur, nisi servitium, suum liberum, quod de Jure nobis facere debent, & facere tenentur; & prout Statutum est eis, & illis à nobis Datum, & Concessum jure hæreditario imperpetuum per Commune Concilium totius Regni nostri.*

B *Of the Feudal Law, and immunity of Free-men.*

C We Will and firmly Command, and we Grant, that all Freemen of the whole Monarchy of our Kingdom aforesaid, have and hold their Lands and Possessions, well and in Peace, free from all unjust Exaction and Tallage, so that nothing be exacted or taken from them, but their Free-Service, which of Right they are bound and ought to perform to us, as it was appointed to them, and given by us to them, and Granted in Hereditary Right for ever, by the Common-Council of our Realm.

The Feudal Law of King William.

The (9.) Third Law is the 56th.

(9.) Ibid. & in Lamb. fol. 171.

D *De nocturnis Custodiis.*

E *Statuimus etiam & firmiter præcipimus, ut omnes Civitates & Burgi, & Castella, & Hundredi & Wapentachia, totius Regni nostri prædicti, singulis noctibus, vigilantur & Custodiantur in gyrum pro maleficiis, & inimicis, prout Vicecomes & Aldermanni, & præpositi & ceteri Ballivi & ministri nostri, melius per Commune Consilium ad utilitatem Regni providebunt.*

Of Night-Watches and Guards.

F We Ordain and firmly Command, that all Cities and Burghs, and Castells, Hundreds, and Wapentachs of our whole Kingdom aforesaid, be watched and guarded every night, and the Rounds to be walked, to prevent Mischiefs, and the Contrivance of Enemies, as the Sheriff, Aldermen, Provosts, and our other Bayliffs and Ministers, shall by Common Advice best provide for the profit of the Kingdom.

Cities, Burghs Castles, &c. to be watched and Guarded.

The

(1.) Ibid. & in
S:ld. not. & c.
fol. 191. n. 10.

The (1.) Fourth Law is the 58th.

De Clientum seu Vassallorum, præstationibus.

Who the Vaf-
sals and Feu-
dataries were.
*See the Glos-
sary in this
word.
Their Service.

*Statuimus etiam & firmiter præcipimus, ut omnes Comites, & Ba-
rones, & Milites, & Serbientes, & universi Liberi homines, to-
tius Regni nostri prædicti habeant & teneant se semper bene in armis
& in equis, ut decet & oportet, & quod sint semper prompti, & bene
parati ad Serbitium suum integrum nobis explendum & peragen-
dum cum semper opus adfuerit, secundum quod nobis debent, de Feodis
& Tenementis suis de Jure facere; & sicut illis statuimus, per Com-
mune Concilium totius Regni nostri prædicti & illis Dedimus & Con-
cessimus in Feodo, jure Hereditario, hoc præceptum non sit violatum
ullo modo super forisfacturam nostram plenam.*

Of the Præstations, or Services of Feudataries or Vassals.

The Conque-
rers Feudata-
ries or Sub-
feudataries,
were Earls,
Barons,
Knights, and
all Free-men.

We Ordain also and firmly Command, that all Earls, Barons, Knights, or such as served for them, and all Free-men of our whole Kingdom, be always fitted with Horse and Arms, as they ought to be, and always ready to perform their whole Service to us, when there shall be need, which they ought of Right to do, according to, and by Reason of their Fees and Tenures, as we ordained by the Common Council of our whole Kingdom, and gave and granted to them in Fee by Hereditary Right. This Command is not to be any ways violated, upon pain of our full forfeiture.

(2.) Ibidem.

The (2.) Fifth Law is the 59th.

Ut Jura Regia illæsa, servare pro viribus conentur, Subditi, the last word (*Subditi*) is put here in stead of (*liberi homines*) as appears by the Law it self.

The Mrtial
Duty of the
Free-men or
Feudataries.

*Statuimus etiam & firmiter præcipimus, ut omnes Liberi homines
totius Regni prædicti, sint fratres conjurati, ad Monarchiam nostram,
& ad Regnum nostrum, pro viribus suis & facultatibus contra inimicos
pro posse suo defendendum, & viriliter servandum, Pacem & Dig-
nitatem Coronæ nostræ, integram observandam & ad Iudicium Rectum
& Justitiam constanter omnibus modis pro posse suo sine Dolo, & sine
Dilatione faciendam.*

The Civil Du-
ty of the same.

*That the Free-men do endeavour, with all their Power, to preserve the
Royal Rights from injury.*

We Ordain and firmly Command, that all Free-men of the whole Kingdom aforesaid, be sworn Brothers, manfully to preserve and defend our Monarchy, and our Kingdom with their Force and Fortunes to our utmost of their Power, and to keep intire the Peace and Dignity of our Crown, and to give right Judgment, and to do Justice by all ways and means, according to their Power and Ability, without Fraud and Delay.

The

The Sixth (3.) Law is the 64th Law.

(3.) Ibid. Seld.
fol. 19. &
Lamb. fol. 171.

De Justitia publicæ fide-jussoribus.

A *Omnis homo qui voluerit se teneri pro libero sit in Plegio; ut Plegius eum habeat ad Justiciam si quod offenderit, & si quispiam evaserit, talium videant Plegii, ut solvant quod calumniatum est, & purgent se quia in evaso nullam fraudem noverint.*

The Borh-Law, or Law of Pledges or Sureties.

B Every man that will be holden for a Free-man, let him be with-
in a Pledge or Decury, and let his Sureties or Pledges bring him to
Justice if he hath offended, and if any man escapes or flies, let them
look to the Debt or Mulct, and pay what is claimed, and purge
themselves by Oath, that they knew no Fraud or Falsehood in him
that escaped. These were the (4.) lowest and ordinary sort of
Free-men that were thus bound to their good Behaviour, and
though it was a Saxon Law, yet in the Circumstances the En-
C glish were in, at that time under hard Masters, it could be no
advantageous or profitable Law to them; and this causeth me to
cite the next Law, and for that our Author often makes use of the
latter part of it.

The Law of
Pledges, or
Borh-Law.

(4.) See the
Glossary in
verb. liberi ho-
mines.

The Seventh and last (5.) Law is the 63^d Law; the others are
only Penal, and Laws of Purgation.

(5.) Lamb. &
Seld. ut supra.

Firmantur Leges Edwardi.

D *Hoc quoque precipimus, ut omnes habeant & teneant Legem Ed-
wardi Regis in omnibus Rebus, adaudis his, quas constituimus ad uti-
litatem Anglorum.*

E Hence our Author (6.) infers, that these Additional Laws were
made for the Benefit and Advantage of the English Saxons, and not
the Norman-English. But I affirm these Laws were made five of
them, as most efficacious for the securing the Peace of the then
Government, which was in consequence only for the advantage of
the Normans, and could not be so for the Saxons, and one other di-
rectly and fundamentally of the greatest Benefit to the Norman Mi-
litary Possessors, or Free-men that could be, though it be said here,
ad utilitatem Anglorum, for the profit of the English.

(6.) Antinorm.
p. 24. p. 30. p. 55
p. 58.

These Laws
made for the
Benefit of the
Norman not
Saxon English.

F First I refer the Reader to the Glossary, for the frequent meaning
of the Words, *Angli*, and *Anglici*, *Franci*, &c. in the old Histories,
and old Norman Grants, Writs, and Charters, and then let him
consider the meaning and intention of these Additional Laws,
(as they are called) both here, and in Gervase of Tilbury, before
cited.

The *first* is the Oath of *Alligiance* to King *William*: The *fifth* here cited is *nothing* but a *further* and *clear* *Explanation* and *Confirmation* of the *first*, That all *Freemen* of the whole Kingdom, should be *sworn* *Brothers*, to defend King *Williams* Monarchy, and his Kingdom according to their power and faculties, or fortunes, against his *Enemies*, and to preserve intire the peace and dignity of his Crown, &c.

Now let us see *who* they were that *swore* and were obliged to do this; they were *Earls*, *Barons*, *Knights*, *Esquires*, and all the *Freemen* of the whole Kingdom, who were always to be ready, fitted and prepared with *Horse* and *Arms*, according to their *Fees* and *Tenemens* which were given them to that purpose by the *Conqueror*, and by the consent of the *Common Council* of his whole Kingdom in fee by *Hereditary Right*, as appears by the fourth Law here mentioned. Now when the *Author* of this *Argument* can make it appear, that *William* Erected new *Earldoms*, *Baronies*, *Knights Fees* and *Services* here, and by the *Advice* and *Consent* of the *Common Council* of the Kingdom, granted *Lands* of *Inheritance* to support and maintain them, and then gave them to the *English Saxons*, I shall agree these three Laws were made for their *Profit*.

And when he can make it appear, that the *Watches* and *Guards* set and placed in *Cities*, *Burghs*, *Castles*, *Hundreds*, and *Wapentaches*, consisted of *English Saxons*, and that his *Sheriffs*, *Aldermen*, *Provosts*, and other *Bayliffs* and *Ministers* that were to *Consult* how to set and place them to the *Advantage* of the Kingdom, were *English Saxons*, I will likewise grant that this *third*, and also the *sixth* Law here noted concerning *free pledges* and their behaviour, were made for their *Advantage*.

(7.) Page 84.
p. 110.
King Williams
Magna Charta,
what it was.

But what shall we say to King *Williams* (7.) *Magna Charta* made and granted to the *English Saxons*? contained in the *second* Law here Transcribed; Why, it was the *same* King, and the *same* *Common Council* of the whole Kingdom, that gave *Hereditary Lands* to all the *Freemen* of the whole Kingdom to support and maintain their *Military Services* in the fourth Law, that granted to all the *Freemen* of the whole Kingdom in the second Law to hold their *Lands* and *Possessions* well and in peace, free from all unjust *Exactions* and *Tallage* by *Hereditary Right* for ever. And therefore, we say, that all the *Freemen* of the whole Kingdom in the fourth Law, and all the *Freemen* of the whole Kingdom in the second Law, were the *same* Persons; that is, such as held their *Lands* by *Knights Service* and *English-Normans*. That these were both *Feudal Laws*, their *Titles* do sufficiently prove; and that they were granted to his *Feudataries* or *Vassals*, King *Williams* Direction of them is a *clear Testimony*.

(8.) See Gloss.
far. in the
word *Homo*.

(9.) Lambard,
f. 170.

Willielmus Dei Gracia Rex Anglorum, Dux Normannorum, omnibus (8.) *hominibus suis Francie & Anglie salutem*. If his *Men* or *Vassals* of France had no Interest, nor nothing to do in England, how could the *English Laws* affect them? for the Resolution of this Point, see the words *Franci & Angli*, &c. in the Glossary; 'Tis in Sir Roger Twysdens Copy, (9.) *Omnibus hominibus suis Francis & Anglis salutem*, which makes no difference, as to the sense and meaning of the words. For the further explication and understanding of these Laws,

Laws, see the Answer to Mr. Petyt, fol. 17. E. &c. and the Glossary in the words *liberi Homines*, &c.

From the *Title* of King *Williams* Laws, he proceeds to the *confirmation* of them, and patches up a pretty (1.) Tale from four different Stories (which have *no dependency* one upon another) to acquaint us with it (as he says) in all the necessary particulars.

Antinorm.
p. 25.

A

William the First (quoth he) (2.) with his *French* and *Normans*, putting many *hardships* upon the *English*, which occasioned great *Disorders* and *Convulsions* in the State, several of the *Saxons* chief Nobility betook themselves to Arms, for the *sake* of their *avite Consuetudines*, to which they bore an *immutable* and *immortal* Love, and which they feared some were endeavouring to take away, and change them; though on the other hand they were obstinately resolved never to part from them, for they had (3.) à *Majoribus didicisse*

(2.) *Ibidem.*

B

aut *Libertatem*, aut *Mortem*, and they would rather undergo the worst Calamities of a Cruel War, than they would tamely quit and abandon those dear Laws and Customs to which they had so long been used; for this Story he cites (4.) *Seldens* Titles of Honour, fol. 523. who relates it out of *Malmsbury*, and tells it of a Quarrel between the *Northumbrians* and their *Earl Tosti*, some years before the Conquest; And it was thus, (5.) King *Edward* after the death of *Sinard* made *Tostin* Earl of *Northumberland*, who by his rough

(3.) *Ibidem*,
p. 26.

(4.) *Ibidem.*

C

temper forced the People into *Rebellion*, and finding him without an Army drove him out of the Country, killed his Men or Vassals, both *Danes* and *English*, seizing upon their *Horse* and *Arms*, and all their Goods; which being reported to the King, he sent *Harold* to chastise them. The *Northumbrians* though not inferior in number, consulting their own quiet, excuse the Fact, saying, *Se homines libere Natos, libere Educatos, nullus Ducis ferociam pati posse, à Majoribus didicisse*

(5.) *Malmsb.*
f. 46. b. n. 10.

The Story of
Earl *Tosti* and
the *Northum-*
brians.

D

aut *libertatem* aut *mortem*, and if the King would have them obedient, he should send *Morchar* the Son of *Algar* for their Earl. *Harold* considering the peace of the Country, more than the profit of his Brother, withdrew his Army, and coming to the King, fixed *Morchar* in the Earldom.

E

Upon this *Fundamental* Story, as he himself hath told it, he builds his following Discourse, and proceeds in these words. (6.) The King hereupon, to keep the People in a greater observance of their Duty, and withal not forgetting the Oath he had taken at his Coronation, caused twelve of the most Discreet and Wise Men in every Shire throughout all *England* to take an Oath before himself to deal sincerely and uprightly without turning either *ad dextram*, or *sinistram*, that is, neither to flatter Prerogative or extend Priviledge, and to declare and lay open the Constitutions of their Laws and Customs, without concealing, adding, or in any sort varying from the Truth. Thus far Sir *Edwards* Citation out of *Litchfields Chronicle*, and his Explication of it, and here he leaves him, and applies himself to the Story as 'tis to be found in *Lambards* Laws, fol. 149. and gives the (7.) Sum of it. That the *English* vehemently beseeched King *William*, that they might retain their own Laws, and old Customs, in which their Fathers lived, and they were born and bred up in.

(6.) *Antinorm.*
p. 26. and Sir
Edw. Cokes
Preface to the
Eighth Re-
port, out of
Litch. Chron.

F

He (8.) finding there was no Remedy, though he was long Resolute,

(7.) *Antinorm.*
p. 27.

(8.) *Ibid.* p.
28. This is his
own, no such
thing in the
Litch. Chron.
or in King *Ed.*
Laws, *Tit. lex*
Nor. nor in
Hoveden.

(9.) Preface
to the Eighth
Report.

(1.) *Ibid.* the
very next
words.

'Tis very
much to be
suspected by
what Sir Ed.
Coke says here,
that he never
saw either
Litchfield
Book, or *In-*
gulph's Copy
of King Ed-
wards Laws.
(2.) *Antinorm.*
p. 29.

King William
never con-
firmed the
Laws in *Litch-*
field *Chro-*
nicle.

(3.) *Not. ad*
Eadm. fol. 171.
n. 40, 50.

(4.) *Col. 2354.*
n. 65.

(5.) *Fol. 343.*
a. n. 10.

at last in a *Common Council* of his Kingdom yields, and by his *Magna Charta*, the ground work of all those that after followed, he confirmed to them *their ancient Laws*; Here he is in with Sir Edward again, but mangles him, (9.) for he affirms, that *Ingulph* saith, the *Laws in Litchfield Chronicle* were by publick Proclamation declared Authentick, and for ever, under grievous Punishment, to be inviolably observed. The (1.) *Sum* of which, composed by King William into a *Magna Charta*, (the ground work of all those that after followed) he blessed with the *Seal of Security*, and *Wish of Eternity*, closing it up with this general, *And we further Command that all Men keep and observe duely the Laws of King Edward.* After this he passeth on with Sir Edwards Citation, in his own words, until he comes himself to the Testimony of *Ingulph*, which he also produceth to prove, that the *Laws in the Litchfield Book* were proclaimed as Authentick and to be observed, immediately after his Citation of Sir Edward and the *Litchfield Book*, saying, (2.) *Ingulphus Secretary to William in Normandy*, and afterwards made *Abbat of Crowland* by him, is an *unexceptionable Witness*, to prove that the *English Laws* were then anew confirmed, and so goes on with his Testimony as I have before Transcribed it; and adds after it, that *this Proclamation* was not all (to allay the *Storms* which perhaps the violation of these Laws had raised) and cites *Mat. Paris* in the lives of the Abbats of *St. Albans*, fol. 48. that King William swore upon all the *Reliques* of that Church, touching the holy Gospel, *Abbat Frederic* administering the Oath, inviolably to keep the good and approved old Laws of the Realm, which the Holy and Pious Kings of *England* his Ancestors, and especially King *Edward* set forth.

Before we can come to his Fragment out of *Matth. Paris*, we must remark upon the *Litchfield* Story antecedent to the Laws themselves, first, that 'tis to be found in *Hoveden*, but not intire, part in fol. 343. a. n. 10. and part in fol. 346. b. n. 50. and fol. 347. a. n. 10, 20. in *Edw. the Confessors* Law, also in *Lambard*, fol. 138. c. 1. and in fol. 149. *Tit. lex Noricorum*, it is to be found in two parts, which put together do intirely make up that Preface. Secondly, That our Author hath omitted the date of, or time when *William* granted these Laws, which *Hoveden*, the *Litchfield* Book, and *Edward the Confessors* Laws say was, *Anno quarto Regni sui*, in the fourth year of his Reign. Thirdly, That *Ingulph* says they were the Laws which he brought with him from *London* in the *twentieth* year of King *William*, that he had by Proclamation caused to be observed. Fourthly, That these were not the Laws contained in the Book of *Litchfield*, which Mr. (3.) *Selden* says were only part of those Laws that are published in *Hoveden*, and that this part is to be found in (4.) *Hen. de Knighton*; and whoever will take the pains to compare them with those in (5.) *Hoveden*, he will find they contain but the first fifteen *Titles* or *Chapters*, and are the very same also with the first fifteen *Chapters* of those Laws printed in *Lambard*, under the name and title of King *Edwards* Laws, and both in *Hoveden* and *Lambard*, the Laws are near thrice the number of these in *Knighton*, nor are they, and the Laws in *Crowland* Copy, scarce in any Points or Chapters alike. Fifthly, And that therefore this Testimony of *Ingulph* cannot be brought by our Author, or any Man else, to prove the Grant or Confirmation of King *Edwards* Laws, as they are to be found in the

the Books above mentioned ; it having not the least Reference to them, nor is it probable that ever *Ingulph* heard of them, or that King *William* ever caused Proclamation to be made, that those Laws should be observed.

Mr. *Selden* doth not only tell us what the *Laws* were in the *Litchfield* Manuscripts, but writes very (6.) suspiciously of all the Laws that are attributed to King *Edward*, except the *Crowland* Copy, and says their *Credit* is *suspicious*, that would *obtrude* upon us *other Laws* than those for King *Edwards*, and that 'tis very likely there was made but *one Review* and *Confirmation* of his *Laws* by King *William* ; and if there were any *more* than *one*, yet the *last* was only to be *allowed* and *esteemed* Authentick, which was *Crowland* Copy:

(6.) *Not. ad Eadm. f. 172. n. 10, 20.*
Crowland Copy the only Authentick Copy of King *Edwards* Laws confirmed by King *William*.

After this we come to the *Story* of *Abbat* (7.) *Frederic* in *Mat. Paris*, which concludes the *Tale* of the *Confirmation* of King *Edwards* Laws by King *William* ; as his constant manner is, our Author gives us but a *shred* of it, yet I think 'tis as much as Sir *Edward Coke* mentions of it, and the same words only. The whole is thus. King (8.) *William* armed with his own and the *Papal* Power, began to deal more severely with the *English*, and they seeing their *Lives* lie at stake, conspiring together, raise a numerous *Army*, and meeting at *Berkhamstede*, placed *Edward Ethelinge* at the Head of them. The great Promoter of this Design was *Frederic* then *Abbat* of *St. Albans*, but by the *Ecclesiastical* Power and *Mediation* of *Arch-Bishop Lanfranc*, after much *Debate* he obtained of *William*, (who vehemently feared, he might lose the *Kingdom* he had gotten with so great *Effusion* of *Blood*) to *Swear* upon the *Holy Gospels*, and the *Reliques* of the *Church* of *St. Albans*, That for the good of *Peace*, he would observe the good, and approved, ancient *Laws* of the *Kingdom*, which the *Pious Kings* of *England*, and especially King *Edward* had inviolably observed. *Frederic* administering the *Oath*, with which they were all satisfied, and returned to their own homes.

(7.) *Arg. Antinorm. p. 30.*
Cokes Preface to the *Eighth* Report.
Fus Angl. ab antiquo, p. 139. 148.
(8.) *Mat. Paris, f. 48. n. 20, 30, 40.*
The *Story* of *Frederic* *Abbat* of *St. Albans*.
The *English* would have made *Edward Etheling* King.

But he craftily concealing his Intentions, within a few days privily and suddenly surprized them when single and dispersed, who being united in a Body, he could not overcome ; many he put to death, from others he took their *Estates*, and very many he Banished, violating the *Law* he had sworn to observe, taking away their *Estates* at his own pleasure, without judicial proceedings, thereby impoverishing the *Natural English*, and enriching his *Normans*.

William violates his *Oath*, destroys the *English*, and takes away their *Estates*.

Edward Etheling (9.) fled into *Scotland*, many of the *Noble English* fled into *Denmark*, and some into *Norway*, being no way willing to submit to the *Yoke* of *Norman* Servitude. (1.) *Abbat Frederic* mightily fearing lest the *King* or his *Lanfranc* should take notice of him, as the chief *Encourager* of the *English*, and so either put him to death, or keep him in *Prison*, by leave and advice of his *Convent* took with him some *Books* and other *Necessaries*, and fled privately into the *Isle* of *Ely*, where after some short time, he grew very infirm and died, after whose death *William* kept the *Monastery* of *St. Albans* in his own hands, cutting down the *Woods* and impoverishing the *Tenants* ; and unless he had been restrained by the *corrections* of *Lanfranc*, had irrecoverably destroyed the whole *Monastery*, who at length

(9.) *Ibidem.*
Edward Etheling and the *English* fly.
(1.) *Ibid. f. 49. lin. 4. n. 10, 20. ne Rex vel suus Lanfrancus.*

Abbat Frederic flies into the *Isle* of *Ely* and dies.

(2.) Ib. n. 30.

(3.) Ibidem.

(4.) Ibidem.

(5.) Ibidem.

England
wholly sub-
dued by the
Normans.

length procured his *Kinsman Paul a Monk of Caen in Normandy*, that he had brought over with him, to be made Abbat, (2.) on the Twenty eighth of June 1077. in the Eleventh year of King William the (3.) Conqueror, (4.) *Hic fuit primus Abbas hujus Ecclesie, postquam Anglia Normannis fuit* (5.) *penitus subjugata*. This was the first Abbat of this Church after England was wholly subdued by, or put under the Yoke of the Normans.

A

(6.) Arg. Anti-
norm. p. 30.

After the Reader hath considered what a miserable Story he hath patcht up out of fragments partially cited, concerning the Confirmation of Edwards Laws, he will be able to judge whether there be any reason for his *Triumphal Conclusion* of it, in the very next words after. Thus (6.) we see (quoth he) the mighty Conqueror Con-
quered, and solemnly renouncing all Arbitrary Will and Power, sub-
mits his Will to be regulated and governed by Justice, and the ancient
Rights of the English: 'Tis presumed before his second Triumph, or the second Edition of his idle Frontispice, with the Explanation of it, or of the *Romantick Poetry* to the Learned Author, he will make it appear, that King William kept all his Oaths and Promises he made at his Coronation, and at all other times, and that the Natural or Saxon-English really and truly enjoyed the benefit of them.

B

* Arg. Anti-
norm. p. 31.
His ridiculous
Exposition of
the word Con-
questus.
(7.) Cragius de
feud. f. 55.

After this Story of the Confirmation of King Edwards Laws, * he harps upon the signification of the word *Conquestus*, and would have it signifie Purchase, as it doth in the Feudal Law, *Antiquum* (7.) *feudum id dicitur, in quo quis patri, avo, vel alicui Majorum succedit, Novum dicitur Quod in persona ejus, qui primus illud acquisivit initium Capit, nec ex successione majorum provenit, Scoti Conquestum, Angli purchase vocant*. It is said to be an Ancient Fee, in which any one succeeds his Father, Grandfather, or any of his Ancestors. A new Fee is that which takes beginning in the person of him that first bought or had it, and which was not from the succession of Ancestors. The Scots call this Conquest, the English Purchase. Again *Antiquum* (8.) *Feudum hereditas, novum Conquestus, dicitur ab Anglis, & Normannis Pourches*. An Ancient Fee is called an Inheritance, a new one Conquest; The English and Normans call it Pourches, from the first Purchaser or Conqueror, for when 'tis (9.) transmitted to his Heir, it then becomes an Inheritance. This is the meaning of the word in private Cases, and in private Estates or Fees, but it cannot be with any colour referred to a Kingdom that was subdued by force. He is desired to let us know of whom William purchased this Nation, and what he gave for it.

C

(8.) Ib. f. 242.

(9.) Skene in
verbo Con-
questus.

D

E

(1.) Text.
Roffen. cited
by Seld. in
Not. ad Eadm.
f. 197. n. 40.

The *Textus Roffensis* gives us in our present Case the true meaning of the word in the beginning of the Relation of the Plea at *Pinennden*, between Arch-Bishop Lanfranc and Odo Bishop of Bayeux, (1.) *Tempore Magni Regis Willielmi qui Anglicum Regnum armis Conquisivit, & suis ditionibus subjugavit, Contigit, &c.* In the time of great King William that Conquered England by Arms, and brought it under his Yoke and Dominion, it happened, &c. We may with other Circumstances believe and rely upon this, as the most true sense of the word *Conquestus* in this Case, and think that the French Monk *Ernulphe* that wrote it, who was (2.) *Consecrated Bishop of Rochester* in the year 1115. not fifty years after William was possessed of

F

(2.) Text. Roff.
p. 168. Malmfb.
f. 133. a. n. 10.
Godw. p.

of the Kingdom, understood the meaning of it, better than such as wrote two, three, four, or five hundred years after him, or Men of yesterday.

A This is a *sufficient Answer* to what he brings out of Sir Henry Spleman, and Sir John Skene upon this word; but still there is a notable Authority behind which he fetcheth from (3.) *Mat. Paris*, f. 941. n. 40, 50. his words out of that Historian are these, *Rex Angliæ ex Conquestu, dicitur tamen quod beatus Edwardus, eo quod hærede Caruit, Regnum legavit Willielmo Bastardo, Duci Normannorum.* He makes no inference from these words, nor indeed can he, to his advantage; and if he had not concealed what went before, and what followed them, any Man might wonder why he cited this place to justify his Exposition of the word *Conquestus*.

(3.) Arg. Antinorm. p. 1.

B *Paris*, reckoning up the Ecclesiastick and Lay Peers of France, says *Dux Normanniæ, primus inter laicos & dignissimus: Rex Angliæ, Dux est de Jure Normanniæ, Sanguinis derivatione gentili; Rex ex Conquestu, dicitur tamen, quod beatus Edwardus eo quod hærede Caruit, Regnum legavit Willielmo Bastardo Duci Normannorum. Sed hoc robore asseritur Caruisse; quia hoc fecit in lecto lethali, & sine Baronagii sui Comuni assensu.* That is, the Duke of Normandy the first, and most worthy of the Lay Peers. The King of England is Duke of Normandy by Right of Blood, King by Conquest; yet 'tis said that St. Edward, because he wanted an Heir, bequeathed the Kingdom to William the Bastard Duke of Normans. But 'tis affirmed this wanted Strength, for that he did it in his Death Bed, and without the common assent of his Baronage. Whosoever considers the word *Conquest* in this place, as it stands in opposition, both to Right by Blood, and Right by Donation, and as it refers to King Williams obtaining the Kingdom of England, cannot interpret it otherwise, than that it was a Conquest by Arms. Therefore this Authority is directly against him, but 'tis used according to his common understanding.

His Partial Citation of *Mat. Paris*.

E Lastly, Considering that his interpretation of the word *Conquestus* might yet remain dark and obscure, for the better (4.) illustration of it, to disabuse the World in this point, he gives the Gentleman for whose satisfaction he wrote this Discourse, a summary Series of the Stiles of the several descendent Kings, from William the First, inclusively to Edward the Third, which are only, *Willielmus Rex Anglorum, Willielmus Rufus Rex Anglorum, Stephanus Rex Anglorum, Richardus Rex Angliæ, Johannes Rex Angliæ, Dominus Hiberniæ, Hen. filius Johannis Rex Angliæ, Edwardus Rex Angliæ, Edwardus filius Edwardi Rex Angliæ, Edwardus Rex Angliæ tertius post Conquestum.* This is his summary Series, and if it be well observed, 'tis a notable Illustration of his Exposition of the word *Conquestus* in his sense, that eight or nine Kings after him, and King William himself, stiled themselves sometimes, Kings of the English, and sometimes Kings of England, and that in this case it signifies only Purchase and not Conquest by Arms.

(4.) Arg. Antinorm. p. 34, 35, 36.

His impertinent use of the Stiles of the English Kings.

F For a further (5.) proof, that King William did not cancel and abolish all the English Laws, (when no Man asserts that he did) nor change, as is so much affirmed, the whole Frame and Constitution of the

(5.) Arg. Antinorm. p. 37.

(6.) Pag. 482,
483, 484.

the Government, he shrouds himself under the Judgment of Mr. Selden, and the Opinion of Sir Winston Church-hill, such unquestionable Authorities (he says) as may sufficiently ballance, if not totally depress the fiercest of Gainfayers. He begins with Mr. Seldens Discourse upon this Controversie in his (6.) Review of the History of Tithes, which is retailed and vented in parcels over and over again in this Discourse, Mr. Petyts Ancient Rights of the Commons Asserted, and all that treat upon this Subject, and therefore I shall give no other Answer to it, than what the Reader may find to the several Particulars of it, in this Answer, and in that to Mr. Petyts Book just before mentioned. And as to what the very Worthy and Learned Gentleman Sir Winston Church-hill hath said, he is yet living, and is best able to explain his own meaning. A

(7.) Arg. Antinorm p. 54.
(8.) Fol. 650.

The next (7.) proof he brings, that the Natives had their Laws continued to them, is the Authority of (8.) Florence of Worcester in these words, *Henricus primus omnes malas Consuetudines, & injustas Exactiones, quibus Regnum Angliæ injuste opprimebatur, abstulit, pacem firmam in toto suo Regno posuit, & teneri præcepit. Legem Regis Edwardi omnibus in Comuni reddit, cum illis Emendationibus, quibus pater suus illam Emendavit.* B

(9.) Preface to the Eighth Report.

Henry the First took away all ill Customs and unjust Exactions, with which the Kingdom of England was oppressed, and settled a firm Peace in the Nation, and Commanded it should be kept; He restored the Law of King Edward to all in common, with those Emendations with which his Father had mended it; or as Sir Edw. Coke (9.) says, with those amendments which his Father added by the advice of his Barons. C

(1.) Fol. 268.
b. n. 10.

(2.) Inflit. 4.
f. 193.

Sir Edward Cokes mangling of Henry the First his Charter.

In that Preface Sir Ed. cites Hoveden, whose (1.) words are the same with those of Flor. of Worcester, and insists much upon it there, That Henry the First did restore to the English their Laws and Customs, and abolished all Evil Customs; and elsewhere he (2) says the good King Henry the First, Son of the Conqueror finding that the Wardship of the Body and Lands of his Tenents by Knight Service, exacted by his Father, was both grievous and unjust, by his Great Charter, Anno Regni sui primo, Reciting, *quod Regnum suum oppressum erat, injustis exactionibus, &c.* (and particularly *tempore patris sui*) did grant (amongst other things) *Quod si Uxor cum liberis remanserit, dotem suam & Maritagium habebit, dum corpus suum legitime servabit, & eam non dabit nisi secundum velle suum, & terræ & liberorum Custos erit, sive uxor, sive alius propinquior, &c.* To be short, by that Golden Charter, *omnes malas Consuetudines, quibus Regnum Angliæ injuste opprimebatur inde abstulit, & legem Regis Edwardi reddidit.* D E

He makes short work with it.

This great Man makes short work with a great Golden Charter, but it must not pass so, lest it be upon the making another Discourse such as this, returned in fragments; and it's necessary something be said of the occasion of it, before we inquire into the nature of the Charter it self. F

This

This Henry was a *meer Usurper*, the youngest Son of *William* the Conqueror, his eldest Brother *Robert* Duke of *Normandy* then alive, and gone in an (3.) *Expedition* to the Holy Land, and being upon his (4.) return, he made what haste he could to make himself King, before it should be known to the *Nobility*, his Brother was safe and returning home; and as a means to accomplish his purpose, (5.) immediately sent upon the death of his Brother *William Rufus*, his *Edict* through *England*, and prohibited the unjust Institutions of him and *Ranulph* Bishop of *Durham*, the great Oppressor of the People under him.

Henry the First an Usurper.
(3.) *Paris*, f. 55. n.
(4.) *Ibid* his Policy.
(5.) *Ibidem*.

After which calling together (6.) the *Clergy*, and *People* or *Laity*, at *London*, and promising to them the amendment of the Laws, by which in his *Fathers* and *Brothers* time the Nation had been oppressed, he so reconciled the minds of all to him, that they received him as their King and Patron, who on the day of his (7.) Coronation, granted them this Charter (and would have granted any thing else without doubt rather than not have been King) under his *Seal*, and divulged it to be kept as a *Monument* through the whole Kingdom; or as (8.) *Mat. Paris*, to be preserved as a *Monument* in the *Abbies* of every County. The Charter it self here follows.

(6.) *Paris*, *Ibidem*.

(7.) *Eadm.* f. 55. n. 40.

(8.) *Fol.* 56. n. 30.

Henricus (9.) *Dei Gratia Rex Anglie* * *Hugoni de Bocland vicecomiti, & omnibus fidelibus suis tam Francis, quam Anglis in Herefordshyre salutem. Sciatis me Dei misericordia, & Comuni Consilio Bar. num Regni Anglie Regem esse Coronatum, & quia Regnum fuit Oppressum injustis Exactionibus, ego Respectu Dei & Amore quem erga vos omnes habeo, Sanctam Dei Ecclesiam liberam facio, Ita Quod nec eam vendam, nec ad firmam ponam, nec mortuo Archiepiscopo vel Episcopo vel Abbate aliquid accipiam de Domino Ecclesie, vel de hominibus, donec successor in eam ingrediatur. Et omnes malas Consuetudines, quibus Regnum Anglie injuste opprimebatur, inde aufero quas Malas Consuetudines in parte hic pono.*

The Charter of Henry the First.

(9.) *Ibid.* f. 55. n. 40.
* *Hugh de Bocland* was a Norman, and a mean Person preferred by King *Hen.* Order. *Gir.* f. 805. B.

Sanctam Dei Ecclesiam liberam facio ita quod nec eam vendam, &c. Here he explains himself, what he meant by making the Church free, *Rufus* by his Instrument *Ranulph* aforesaid, contrary to Ecclesiastical Right, (1.) when Bishops and Abbats died, sold Bishopricks or *Abbies* to those would give most for them, or let them to farm, and by that means every year brought him in a great Sum of Money, and at the time he was slain, he had in his hand (2.) the Arch-Bishoprick of *Canterbury*, and the Bishoprick of *Winchester*, and *Salisbury*. *Nec mortuo Archiepiscopo vel Episcopo vel Abbate aliquid accipiam, &c.* Neither upon the death of an Arch-Bishop, Bishop, or Abbat, will I take any thing of the Fee, Royalty, or Demeasns. of the Church, (Lands which the Bishops and Abbats kept in their own hands) nor of their Men, (that is, their Tenents, Vassals, or Usurfructuaries) until a Successor be placed in it.

Ranulph Bishop of *Durham*, *Rufus* his Instrument.
(1.) *Flor. Wigorn.* f. 649.

(2.) *Ibid.* 656.

Et omnes Malas Consuetudines, &c. These ill Customs with which the Kingdom was oppressed were since the Conquest, for of the Laws or Taxes or Customs before that time, the Monks that wrote the History of those times complain not; Therefore the ill Customs here to be amended grew in his *Fathers* and *Brothers* Reigns; and by what

(3.) Lamb. f.
170.

Customs in
this Charter
are Payments
or Exactions.

This Para-
graph a Re-
laxation of
the Rigor of
the Feudal
Law.

follows in this Charter, it may be easily conjectured, they were chiefly, if not *only*, the *not allowance*, or *observation* of the 55th Feudal and Additional Law of the Conqueror to those of Edward the Confessor, in which it was provided they should hold their Lands well and in peace, free from all *unjust Exaction*, and all *Tallage*. The ill Customs here meant were therefore the *Exactions* and *Usages* of his Father and Brother, and they could be *no other* as is evident by the words immediately following, (*Quas Malas Consuetudines hic in parte pono.*) This Charter being for the most part a *Relaxation* and *Abatement* of Feudal Impositions almost every where in all Nations of Europe, according to that Law allowed and practised.

Si quis Baronum meorum Comitum vel aliorum, qui de me Tenent, Mortuus fuerit, haeres suus non redimet Terram suam sicut facere Consuevit tempore patris mei, sed iusta & legitima Relevatione relevabit eam, similiter & homines Baronum meorum legitima & iusta Relevatione Relevabunt terras suas, de Dominis suis. Et si quis Baronum, vel aliorum hominum meorum, filiam suam tradere voluit, sive sororem sive neptem, sive Cognatam, tecum inde loquatur, sed neque ego aliquid de suo, pro hac licentia accipiam, neque defendam ei Quin eam det, Excepto, si eam dare voluerit inimico meo, & si mortuo Barone vel alio homine meo filia haeres remanserit, dabo illam cum Consilio Baronum meorum cum terra sua, & si mortuo marito uxor ejus remanserit, & sine liberis fuerit, dotem suam, aut Maritagium habebit, & eam non dabo marito, nisi secundum velle suum, si vero uxor cum liberis remanserit, dotem suam & Maritagium habebit, dum Corpus suum legitime servabit; Et eam non dabo, nisi secundum velle suum. Et terrae liberorum Custos erit, sive uxor, sive alius propinquior, qui iustus esse debet, & praecipio ut homines mei, similiter se Contineant, erga filios & filias, & uxores hominum suorum.

This Paragraph, and indeed the whole Charter, is only a Relaxation of the Feudal Law used at this time in Germany, France, Normandy, Italy, and all the European Nations, as any that ever heard of, though he hath not thoroughly read them, must acknowledge; and it's evident this Charter was not a Declaration or Restitution of any old Laws or Customs, but a meer Relaxation or Abatement of the Feudal Norman Law, practised by his Father and Brother, in exacting great Reliefs, and concerning the Wardship of Orphans, and disposing of them, and Widows in Marriage. If Relief, Wardship, and Marriage, be three necessary Consequences, and undoubted Marks of Feudal Tenure, (as I think no body can deny it) then was this Paragraph undoubtedly, only a making easie those three main Consequences of such Estates, and granted by an Usurper that was to deny nothing.

Monetagium Comune quod capiebatur, per civitates vel comitatus quod non fuit tempore Edwardi Regis, (that is, which only was in the time of his Father and Brother) hoc ne amodo fiet omnino defendo (I altogether forbid.)

(4.) Grand.
Cust. c. 15.
Monetagium
taken of, and
what it was.

Monetagium here, (4.) Moneage in Normandy, was an Aid or Duty paid to the Duke of Normandy once in three years, that he should cause, or suffer the current Money of Normandy to be changed.

changed. Which was paid by all in *Normandy* that had Moveables, or Rents of such a value, and had Residence or a Fire Hearth there ; except the Clergy, Chevaliers, or Tenents in Military Service, and their Children by their Lawful Wives, and others there excepted. 'Tis probable this Imposition was brought into *England* by his Father, and continued by his Brother, and laid upon Military and Clergy Men as well as others, and was taken off by this Clause of the Charter.

Omnia Placita & omnia Debita, Quæ Regi fratri meo debebantur, Condone, exceptis firmis meis, & exceptis illis quæ facta erant pro aliorum hereditatibus, vel pro illis rebus quæ justitiis alios Contingebant ; Et si Quis aliquid pro hereditate sua pepigerit, illud Condone & omnes Relevationes, quæ pro rectis hereditatibus pactæ erant.

He Pardons all Debts in the Exchequer and Punishments due to his Brother.

Placita here signifies Penalties, Mulcts, or Emendations, according to (5.) *Gervase of Tilbury*, or the Black Book in the Exchequer. *Placita autem dicimus penas pecuniarias, in quas incidunt delinquentes.* See *Leges Hen. 1. c. 12, 13.* Hence 'twas said anciently, *Comes habet tertium denarium placitorum*, that is, the third part of the Money due upon Mulcts, Fines, or Punishments, as well as other Profits of Pleas.

(5.) *Lib. 2. Tit. 13.*

Placita signifies Mulcts.

Of which the Earl had the third part.

Si quis Baronum vel hominum meorum infirmabitur, sicut ipse dabit, vel dare disposuit, pecuniam suam, (that is, his Goods and Moveables) ita datam esse volo. If any of my Barons or Vassals fall sick, he may dispose of his Stock as he pleaseth ; *De feudo Testamenti nulla est factio, Hottom. in lib. 1. feud. Tit. 8.* And it should seem by this Clause, that Barons before this Charter could not without Licence dispose of their Personal Estates by Will ; *Quod si ipse morte preventus, pecuniam suam nec dederit, nec dare disposuerit, uxor sua liberi & parentes, & legitimi homines sui, eam dividunt pro anima sua, sicut eis melius visum fuerit.* Yet notwithstanding this Charter, the King or Lord by Law had Intestates Goods and Chattels, in *Henry the Second's* Reign, according to *Glanvill*, (6.) *Si quis vero intestatus decesserit omnia Catalla sua ;* When any one dieth Intestate, all his Goods and Chattels are his Lords, if he had many Lords, every one had those found upon his Fee ; and the Goods of all Usurers belonged to the King, whether they died Testate or Intestate.

(6.) *Lib. 7. c. 16.*

Si quis Baronum vel hominum meorum, forisfecit, non dabit vadium in miseria pecunie suæ ; That is, If any of his Barons or Feudataries forfeited, he should not forfeit, or give Security to answer all his Goods or Moveables, as they did in the time of his Father and Brother, *sed secundum forisfacturæ modum, &c.* but his forfeiture or punishment should be answerable to the nature of his fault. *Quod si perfidie vel sceleris Convictus fuerit, sicut culpa, sic emendet.* This Perfidiousness was called **Felony**, (7.) and was a forfeiture of the Fee, but there being degrees of Treachery and Ingratitude, the Feudatary here was to make satisfaction only according to the greatness or smallness of the Crime.

Punishment to be according to the nature of the fault.

(7.) *Hottom. in verb. feloniam.* Treachery punished according to the Heinousness of it.

Murdra etiam retro (that is the Money Mulcts, or Punishments due for Murder committed) *ab illa die qua in Regem Coronatus fui*

Murder penal:

omnia condono; From the day in which he was Crowned he forgave it all. *Et ea quæ amodo facta fuerint juste emendentur, secundum legem Regis Edwardi*; And for the future the Fine or Pecuniary Mult for Murder should be the same it was in King Edwards Laws, which was Forty six Marks; See Law 53 of *Seldens*, and Law the 15th of *Lambard*. King *William* and his Son *Rufus*, besides that they raised the Fine or Punishment for the Murder of a *Norman*, and put the payment of it more strictly upon the Hundred than before, they also punished the *Englisch* (8.) with severe Torments. This Law restored the old Fine for Murder as it was formerly.

(8.) *Gervaf. Tilbur. lib. 1. Tit. 23.*

Forestas Comuni Consilio Baronum meorum, in manu mea ita retinui, sicut pater meus eas habuit. There were mighty Clamours against his Father and Brother, concerning Forests, and the Laws and Rules they directed for their Government, yet these the Barons allowed and submitted to, seeing they were small matters in respect of the great Advantages they had by the renunciation of his Feudal Rights.

Militibus Qui per Loricas Terras suas defendunt; Terras Domini- carum carucarum suarum quietas ab omnibus Geldis, & omni proprio dono meo concedo.

The Lands which the Military Men used themselves were not to be Taxed.
(9.) See the Glossary in the words.

Military Fees are sometimes called *feoda Lorica*, (9.) and sometimes *feoda* (9.) *Haubertica*, *Lorica* signifying particularly a Coat of Mail, and *Haubert*, *Halbert* or *Halbard*, a Lance, Javelin, or Halbert; which particular words at length either of them came to be used for the whole Armour of an Horseman, which was a Coat of Mail, a Shield, a Sword, Helmet, and Javelin or Halbert: as likewise did *Scutum*. To these Milites or Chevaliers, he granted their Demeasns or Lands which they kept in their own hands, and occupied themselves, should not be Taxed; but for others let out to Tenents (1.) they were still liable to Tallages and Impositions, which the Tenents paid to their immediate Lords; and for this *Indulgence* he expects.

(1.) *Spelm. Glossar. in verb. feudum.*

For these favours, he expects they should be ready with Horse and Arms to defend the Kingdom.

(2.) *Append. n. 10.*

Ut sicut tam magno Gravamine alleviati sunt, ita equis & armis, bene se instruant ut apti & parati sint ad servitium suum, & ad defensionem Regni sui. That as they were freed from such great Burthens upon their Estates, so they should be well furnished with Horse and Arms, ready and prepared for his Service, and for the defence of his Kingdom. This plainly shews who were mostly to receive the benefit of this Grant, his Barons, Chevaliers, Knights, and Military Men, amongst whom, all or most of the (2.) Lands of the Nation had been divided; And after all this he adds,

Pacem firmam pono in toto Regno, & teneri amodo præcipio; Legem Regis Edwardi, vobis reddo, cum eis Emendationibus, quibus pater meus eam emendavit Consilio Baronum suorum. I settle a firm Peace in the whole Kingdom, and Command it to be kept for the future. I restore to you the Law of King *Edward*, with those Emendations with which my Father altered or amended it, by advice of his Barons. These were the Laws of King *Edward* which *Ingulph* Abbat of *Croyland* brought with him from *London*, of which enough hath been said before.

Si

Si quis aliquid de meo, vel de rebus alicujus, post obitum Regis Willelmi fratris mei cepit, totum cito reddatur absque emendatione, sed si quis inde aliquid retinuerit, ille super quem inventum fuerit, graviter mihi emendabit. If any one hath taken any thing of mine, or any other Mans; since the death of my Brother King William, he may presently restore it without Punishment, but if he reteins it, and it be found in his possession, he shall be grievously Fined to me.

A

His Testibus, (Mauritio Londinensi Episcopo) he was a Norman, King Williams (3.) Chaplain first, and then Chancellor. (*Willelmo Wintoniensi Electo*) his name was (4.) Giffard and a Norman, he was chosen in the time of Rufus, in the absence of Anselm at Rome, but by reason of the (5.) Contest between Rufus, Henry the First, and Anselm, about Investitures, he was not Consecrated, until ten years after his Election, or Designation by Rufus. (*Girardo Herefordensi Episcopo*) he was a Norman and Chancellor under King

(3.) Godw. de presul. p. 233.

(4.) Ibidem, p. 269.

(5.) Ibid. and p. 92.

B

William the First, and Second. (*Henrico Comite*) Hen. of Newborough Earl of Warwick, a Norman, and a great Contriver (7.) of Henry's Kingship. (*Simone Comite*) Simon Sylvanectensis, Simon S. Liz. a noble Norman Earl of (8.) Huntingdon and Northampton. (*Waltero Giffard Comite*) he was a Norman, Earl of Buckingham, and Brother to Bishop William. (*Roberto de Monteforti*) (*Rogero Bigod*) two known Normans, & aliis Multis. Not an Englishman amongst these Witnesses, of which if any Man doubts, let him peruse Dugdales Baronage, in the several Names and Titles, Malmsh. de gestis pontificum Eadmer, and the Historians of those times; From whence 'tis more than probable, this Charter was an Indulgence, and an Abatement of the Common Feudal Law, granted to the Norman English, such as lived in England, rather than to the ancient Natives, or Saxon English, as it will appear hereafter.

(6.) Ibid. inter. Episc. Ebur. f. 27.

(7.) Malmsh. f. 88. a. n. 20

(8.) Dugd. Baron. f. 58 col. 2.

Not an Englishman to be found amongst the Witnesses to King Hen. Charter.

C

This Gentleman (9.) says, it was the powerful and greatest Interest of the English that kept the Crown upon Rufus his Head, maugre all the power of the Normans, who universally joyned with his Brother Robert. Here he must mean the English Saxons, and not the English Normans, or he proves nothing, the truth of which will be examined, when we come to consider the Directions of the Charters of the first Norman Kings.

(9.) Arg. Antinorm. p. 57.

D

The Third Question.

Whether it be true, that the English had neither Estates nor Fortunes left? but all was divided between the King and his Normans:

Arg. Anti-norm. p. 58.

E

F

As the two foregoing Questions have not been rightly stated, so neither is this, for 'tis not barely, Whether the English had Estates or not? but, Whether they possessed them in the same manner and condition after the Conquest, they did before? Many Saxons had Estates, and the same Lands they held before the Conquest, but after it, they received them from the Normans, and held them as their Tenents, and under such Composition, Rents, and Services as they put upon them. See the Answer to Mr. Petyt's Ancient Rights, &c. f. 12. A.

The English Saxons that held their Estates, had them upon Terms from the Normans.

And

(1.) *Append.*
n. 10.

All the Lands
in *England*
possessed by
William, and
distributed to
his Followers.

And 'tis demonstrable by a (1.) Catalogue of all the Tenents names that held Lands of the King in every County of *England* that was surveyed, that the whole Nation was divided between the Conqueror and his *Normans* or Followers; and that whosoever held any Lands, Mannors, or Towns, held them of the Persons there named, which were all Strangers, such as came in with *William*, or followed him, except perhaps some very few Bishops, Abbats, or Churchmen that had their Lands restored again by the Mediation of Arch-Bishop *Lanfranc*, as is shewed in the Preface to the *Norman* Story; and *Taini* or *Ministri*, Servants and Rural, or other small Officers, that had served *Edward* the Confessor, and were afterward retained by the Conqueror.

A

(2.) *Arg. Antinom.* p. 58, 59.

To make good his (2.) contrary Assertion, he again is upon the foil, That King *William* was received upon Terms, and that the *Saxons* had their Laws confirmed and continued unto them, and therefore their Estates also. This hath been sufficiently spoken to before.

B

(3.) *Ibid.* p. 61, 62.
Petyt's Preface to Ancient Rights, &c. p. 23.

His next (3.) Argument to the same purpose, is the old thredbare, over-worn Fable of *Sharnborn*; Thus, *Edwin* of *Sharnborn*, and several others that were ejected out of their Estates and Possessions, went to the Conqueror and told him, that they never either before, or in, or after the Conquest were against him, either by their Advice or any other Aid, but kept themselves peaceably and quietly; and this they were ready to make out, which way soever the King pleased to appoint; whereupon he ordered an Inquisition to be made throughout all *England*, whether it were so, or not, which was plainly proved; Therefore he presently Commanded, that all those who so kept themselves peaceably in manner aforesaid, as these had done, should be repossessed of their Lands and Estates, as fully and quietly, as they ever held them before his Conquest.

C

(4.) *Ibidem*, p. 63.

This is a Case, saith our Author, (4.) so full to the point, and so plain to every common understanding in it self, that it would be frivolous to make any deductions from it; and so it is, if it had been true. There is no such Plea as this in all *Domesday* Book, nor any like it, which Survey (as hath been said) was finished in the Twentieth year of the Conqueror, who presently after went into *Normandy*, and never returned again into *England*, nor is there any such Person as *Edwin* to be found in *Domesday* that held any Lands in *Sharnborn*. See full satisfaction given to this in the Answer to the *Ancient Rights of the Commons*, f. 11. E. f. 12. A. B. C.

D

E

The partiality and dissingenuous Citations of the Author of *Jus Anglor.* &c.

* *Jus Angl. ab antiquo*, p. 95.

* This Gentleman understands not the meaning of *Virgata*, a Virgate was the fourth part of a Hide.

But though there are really no such Pleas as this pretended and sham Plea of *Sharnborn* in *Domesday* Book, yet the Author of *Jus Anglorum ab antiquo*, hath endeavoured to make some very near, and like unto it, by mangling, partially, and false citing some Entries in that great Record, by which he pretends to shew several Claims, or * Titles allowed. *Aldredus frater Ode Caluminatur unam virgatam terræ de hoc Manerio & dicit se eam tenuisse die qua Rex Edwardus fuit vivus & mortuus, & disaisitus fuit postquam Willielmus mare Transiit, & ipse dirationavit coram Regina inde est testis ejus Hugo de port & homines de toto Hunaredo.* *Aldred* the Brother of *Ode* claims one

F

* Rood of that Maner, and says that he held it the day that King *Edward*

Edward

Edward was alive and dead, and was disseised after King William passed the Seas; and he recovered it before the Queen. Hugo de Port is Witness of it and the whole Hundred.

In Domesday Book thus.

Hantescire.

A

N. LIII. Terra * Willielmi arcuarii, in Sumburn Hund.

Isdem Willielmus tenet Cuntune, Quinque Teini tenuerunt de Rege Edwardo & quo voluerunt ire * potuerunt Tunc se defendebat pro 4 hidis & dimid. modo pro tribus Hidis, Terra est septem Carucarum, In dominio est una, & 13 villani & 19 Bordarii cum 7 Carucis, ibi molinum de 20 solid. & 8 acr. prati, tempore Regis Edwardi & post valuit quatuor lib. modo septem lib.

* Domesd. f. 48. b. col. 2.

* Id est, they were not Servi Domini, such as were affixed to the Maner or Service they were in.

B

Eldredus frater Ode * Calumniatur Unam Virgatam Terre de hoc Manerio & dicit se eam tenuisse die qua Rex Edwardus fuit vivus & mortuus, &c. as it is above. Yet notwithstanding this Claim, and his Recovery of this Land before the Queen, he recovered it not as his Propriety, but as Land which he had allowed him for his Service, for it appears under the 69th Title, that this Eldred or Aldred was one of the Kings Thanes or Servants, and had been one of King Edwards, and therefore this Claim makes nothing to his purpose. The Title and Entry is thus.

* Ibidem.

C

Hantescire.

N. LXIX. Terra Cainozum Regis, in Bertune Hund.

Ode * tenet de Rege Sudtune, &c.

* Ibidem. f. 46.

D

In Sumburn Hundr.

Eldredus * frater Odonis Tenet Dimid. Virgam de Rege, ipse tenuit de Rege Edwardo, & tunc se defendebat pro dimid. Hida modo pro una virgata. Terra est unius Caruca in Dominio dimid. cum uno villano & uno Bordario, & dimid. Caruca, & duabus acr. prati valet & valuit 6 solid. It is clear from this Title that Eldred or Aldred the Brother of Ode or Odo, was Servant both to King Edward and King William, and that he had one Virgate of Land for his Service in Sumburn Hundred, which Virgate was doubtless the same that he claimed and recovered of William the Bowyer, lying within the Maner or Town of Cuntune in that Hundred also.

* Ibidem, f. 50. b. col. 2.

E

Next, he says Hugo de Port * had his Claim allowed, Hanc hidam calumniatur Hugo de Port dicens eam pertinere ad sua Maneria de Cerdesford & Eschetune & ibi eam tenuerunt sui antecessores, & hoc testatur totum Hundredum. This Claim shall be Considered by and by: And the Reader is desired to observe with what partiality and design this piece only of the Record is cited, to abuse the People, when he shall come to this mark & twice placed in the Margin.

* Fus Angl. ab antiquo, p. 96.

F

A

* *Fus Aogl. ab antiquo*, p. 96. 97.

* In the Record it is volunt.

* *Ibid.* p. 97.

* *Ibid.* p. 98.

* *Ibidem.*

* *Domesd. f. 44. b. col. 2. & Seld. Not. ad Eadm. f. 217. n. 10.*

Observe all between these marks [] is left out in the Citation in *Fus Aglorum*, &c.

A third is the * remarkable Tryal (as he calls it) between *William de Chornet*, and *Picot*. In isto Hundredo & in isto Manerio tenet *Picot* 2. virgat. & dimidium, & istam Terram Calumniatur *Willielmus de Chornet* dicens pertinere ad Manerium de *Cerdeford* Feudum *Hugonis de Port*, per hereditatem sui antecessoris, & de hoc suum Testimonium adduxit de melioribus & antiquis hominibus Totius Comitatus & Hundredi, & *Picot* Contradixit suum Testimonium de Villanis & vili plebe, & de prepositis qui * nolunt defendere per Sacramentum, aut per Dei Iudicium, Quod ille Qui tenuit terram liber homo fuit, & potuit ire cum Terra Quo voluit, sed Testes *Willielmi* nolunt accipere legem nisi Regis E. usque dum diffiniatur per Regem.

In that * Hundred, and in that Maner *Picot* holds two Roods and half of Land; that Land *William de Chornet* claims, saying, it belongs to the Maner of *Cerdeford*, of the Feud of *Hugo de Port* by the Inheritance of his Ancestor, and of this produced his Testimony of the better and ancient of the whole County and Hundred, and *Picot* on the other side brought his Villains, and inferior People and Bayliffs, who will not defend by Oath, or by Gods Judgment, (which he * takes not to be the Ordeal but the Battail) that he who held the Land was a Freeman, and might go with it whether he would; * Here the County or Hundred Testifies, that the stress of *de Chornets* Cause depends upon the Confessors Law, and so give the Title with him.

In *Domesday* Book this Entry follows the Survey and Description of the Maner of *Cerdeford*, which see here a little further at this mark & in the Margin, and then referring to the Maner of *Cerdeford* in *Fordingbridge* Hundred, it is said.

In isto * Hundredo & in isto Manerio tenet *Picot* duas virgatas & dimid. [de Rege, *Phitelet* tenuit in Alodio de Rege *Edwardo* pro Manerio tunc & modo Geldabat pro duabus virgat. & dimid. Terra est dimid. Caruc. & ibi est cum uno villano, & duobus Bordariis & 10 acr. prati.] Then it follows, Istam Terram Calumniatur *Willielmus de Chornet* dicens pertinere ad Manerium de *Cerdeford* Feudum *Hugonis de Port* per hereditatem sui antecessoris, & de hoc suum Testimonium adduxit de melioribus & antiquis hominibus totius Comitatus, & Hundredi & *Picot* Contradixit suum Testimonium de Villanis & vili plebe & de prepositis, Qui volunt defendere per Sacramentum aut Dei Iudicium Quod ille qui tenuit Terram liber homo fuit, & potuit ire cum Terra sua quo voluit, sed testes *Willielmi* nolunt accipere legem nisi Regis E. usque dum diffiniatur per Regem valuit 15 sol. & post 8 sol. modo 10 sol.

In that Hundred, and within the Precinct of that Maner *Picot* holds two Virgates and half of Land of the King. *Phitelet* held it in Propriety of King *Edward* for a Maner; Then and now it was Taxed for two Virgates and half, the Land is half a Carucate or Ploughland, and there it is, with one Villan, and two Bordars, and ten Acres of Meadow.

That Land *William de Chornet* Claims, (he was Tenent to *Hugh de Port* of the Maner of *Cerdeford*) saying, it belongs to the Maner of *Cerdeford*,

Cerdeford, the Feud or Fee of *Hugh de Port*, by the * Possession of his * Antecessor, and of this he brought his Testimony, of the best and ancient Men of the whole County and Hundred, and *Picot* contradicted their Testimony by Villains, Vile Plebeians, or the lowest sort of the People, and Bayliffs, or Managers of Villages or Manors, who offered to prove by * Oath, or by * Battle, that their Testimony was true; That is, that he which held the Land before *Picot*, was a Freeman, and might go with his Land whether he would; but the Witnesses of *William* would not receive, or be urged upon any other Law than King *Edwards*, (which was their simple Testimony only in this case) until it were determined by the King. The Land was worth Fifteen Shillings *per Annum*, afterwards Eight, at that time Ten.

This Gentleman in his Citation omits these words, *Picot tenet de Rege, & Phitelet tenuit in Alodio de Rege Edwardo pro Mancro*; From whence, 'tis clear, that at the time of making the Survey *Picot* was in possession of the Land, and that he held it of King *William*, and that his Antecessor, *Phitelet* which had it before him, held it in Propriety as a Maner of King *Edward*; and though there appears no judgment given with *William de Chernet*, or against *Picot* in the Record, yet this confident Person makes a strange deduction, which the words cannot possibly bear, that * the County or Hundred testifies, that the stress of *de Chernet's* Cause depended upon the Confessors Law, and so gave the Title with him. Whereas the meaning of those words, *Sed testes Willielmi nolunt accipere legem nisi Regis E.* is very clear, and altogether to another purpose, for the Witnesses of *William* were urged to try the Title by Battle, which way of Trial * was brought in by the *Normans*, and not in use here before the Conquest, and therefore they would not proceed further than give their Testimony, nor use any other Law than that *usque dum definiatur per Regem*, until the King should define or appoint whether they should or not; so that for ought what appears by the Record, *Picot* was left in Possession, and the Title undetermined, until the King had declared by what Law, whether Testimony only, or Battle, the Trial was to proceed.

By his fourth and fifth Instance, he says, * 'tis evident, that King *William* did not so much as make a new Grant or Confirmation to Men, of what was theirs before, the old Title being sufficiently firm: * Hence in *Amelbrice* Hundred in *Surrey*, *Tenuit Almaris sine dono Regis, eo quod Antecessor ejus Almar tenuit*; *Almar* held without the Kings Grant, because his Antecessor *Almar* held it. The true Entry of this Instance in *Domesday* Book is thus.

Sudric.

N. XIX. * *Terra Ricardi filii Gisleberti Comitis in Amelbridge Hund.*

Picot tenet de Ricardo in Ebfa dimid. Hid. quam tenuit Elmarus sine dono Regis, eo quod Antecessor ejus Elmar tenuit, tenet nunc Picotus, nunc valet V. solid.

* See the words *hereditare, & hereditus* in the Glossary.

* See a little further at this mark ¶ in the Margin, how the Authors of *Arg Antinorm* and *Fus Angl. ab antiquo*, impute upon, and abuse their Readers, by not understanding the word Antecessor.

* See *per Sacramentum vel Dei Fudicium defendere*, in the Glossary. The Confidence of the Author of *Fus Anglorum*, &c.

* *Fus Angl. ab antiquo*, p. 98. He understands not the Record he cites.

* *Seldens* Discourse of Duel or single Combat, Printed at Lond. 1616. It was left to King *William* to determine whether a Trial was to proceed by Battle or Testimony.

* *Fus Angl. ab antiquo*, p. 98, 99.

* *Ibidem.*

* *Domesd. f. 35. a. col. 2.*

Note how partially he cites this.

Surry.

N. XIX. *The Land of Richard Son of Earl Gilbert in Amelebrige Hundred.*

Picot holds of *Richard* half a Hide in *Ebsa* (now *Ebbham*) which *Elmar* held without the Kings Grant, because his Antecessor *Elmar* held it, now *Picot* holds it, and now it is worth Five Shillings.

These *Elmars* both former and later were Invaders, or as we now call them Intruders, they had no Title from the King, and therefore this half Hide was granted to *Picot*, either immediately by the King to hold of *Richard*, or mediately by *Richard*, who was the *Tenant in Capite*, and held six Hides in this Maner of *Ebsa*. He is otherwise called *Richard de Tonebridge*, and his Father was *Gilbert* Earl of *Brion* in *Normandy*, to whom the Conqueror granted *Tonebridge* in *Kent*, and three Miles round it every way. There were many of these Intruders or Invaders, but perhaps more in *Essex*, *Norfolk*, and *Suffolk*, than in any other Counties, for in these three there are in *Domesday Book* distinct Titles concerning Invasions, as in *Essex* number the 90 Title *Invasiones*, in *Norfolk* number 66 Title *de Invasionibus*, and *Suffolk* number 76 Title *de Invasionibus super Regem*; And under these Titles were entred such People as retained their Lands, or had possessed themselves of Land, without the Kings grant or knowledge.

His fifth Instance, but the second, by which he would prove, That Men held their Estates that they had before the Conquest, without any Grant or Confirmation from King *William*, is this; * In *Gloucestershire*, *Brietric tenet de Rege quatuor hidas in Lechamtone, & Geldant; ipse duas hidas tenuit tempore Regis Edwardi, & Ordric Tenuit alias duas, Rex Willielmus utramque eidem Brietric Concessit pergens in Normaniam.*

Brietric * holds of the King four Hides in *Lechametone*, and they pay a Quit-Rent, he held two Hides in the time of King *Edward*, and *Ordric* the other two, King *William* when he went into *Normandy*, granted them all to *Brietric*; * so that *Brietric* enjoyed the other two, not contained in the Kings Grant, upon his prior Title.

In *Domesday Book* thus.

Glowcestre-scire.

N. LXVIII. *Terræ Cainozum Regis*

In Gitenham Hund.

* *Brietric* * *tenet de Rege quatuor hidas*, and so on as above; We find by this Title that *Brietric* was one of the Kings Servants, and held two Hides as such, and he held them of King *Edward* upon the

Domesday-Book.

* *Fus Angl. ab antiquo*, P. 99.

* *Ibidem.*

* *Ibidem.*

* *Domesd. f. 170. b. col. 1.*

the same Account ; King *William* continued him in his Service, and to him the Land he held for that Service, and then gave him two Hides more which *Ordric* held of King *Edward*, who was doubtless a Servant to him, and *Brietric* afterwards performed his Service, for which he had the Land. See more of these Servants, Ministers, or Tains and their Tainlands hereafter in this Answer, where the Readers patience will be exercised with more of this ignorant, confident, self-conceited Mans wretched abusing, partial citing, and false applying of Records and History.

And further, that it is not probable there was any such indulgence used toward the Saxons, as the imaginary and forged favour towards *Sharnborn*, I will produce two Instances. First, of *Wulketule* Abbat of *Croyland*, and the Monks of the same Monastery, who were Disseised of the Priory of *Spalding* in *Lincolnshire* and the Lands belonging to it. This Priory was founded by (5.) *Thorold* (*Vicecomes Lincolniae*) in the year 1052. he gave to it the Maner of *Spalding*, with all the Lands, Rents, and Services belonging to it, and the Stock upon the Land, and contrived his Maner House into an Habitation for Monks, to ease and relieve the Abby of *Croyland*, that was then too full and over-burthened with them, and carried with him six Monks from *Croyland* and placed them there ; who there continued with a Prior until 1100 (6.) *Talbois* Earl of *Anjou* and Lord of *Holland* that came over with the Conqueror, turned out the Prior and Monks, and Disseised the Abbat and Convent of *Croyland* of their Cell; killed and maimed their Cattel, Sheep and Oxen, beat, wounded, and sometimes killed their Servants till they left it, and sent to *Natalis* Abbat of *St. Nicholas* in *Anjou*, desiring him to send him five Monks and a Prior, and he would provide a Cell for them, with sufficient Maintenance ; *Veniunt* (saith *Ingulph*) *Andegawenses Monachi, & Cellam nostram occupant, alienique coram nobis terras nostras Devorant. Et Domino Wulketulo Abbate, super hoc in Curia Regis Calumniam movente, omnes Normanni mutuo Confederati, prædas & pressuras, caedes & ceteras injurias universas Ibonis Talbois contra Croylandenses justificant.* The Monks of *Anjou* came, and usurped the Cell of *Croyland*, and Strangers devoured their Lands before their Faces ; Of this *Wulketule* the Abbat complained, and put in his Claim for the Cell in the Kings Court, all the Normans confederated together, and justified the Rapine, Slaughters, and other Injuries of *Ivo Talbois* against those of *Croyland*, and afterwards King *William* (7.) confirmed 1100 his settlement upon the *Anjou* Monks. What can it be presumed, that the *Croyland* Abbat and Monks had done against *William*, to have the Cell taken from them ? Nay, What had the six Monks of *Spalding* done, to be turned out of it ? *Ivo* had some sort of Title to this Maner by his Wife *Lucia*, (of whom more by and by) and perhaps he sent for such hungry Monks out of his own Country, as would be contented with half, or a third, or fourth part of it, and kept the rest to himself.

The second Instance is in *Afa*, a Saxon or Danish Lady. De (8.) *omni Terra Ase Testantur Quod Roberti Malet debet esse, eo quod ipsa habuit terram suam separatam & liberam a Dominatu & potestate Bernulfi Mariti sui, etiam cum simul essent, ita ut ipse de ea, nec donatione,*

The Saxons received no favour from the Conqueror.

(5.) *Ingulph. Histor. f. 510. b n. 10. 20.*

The Case of the Priory of *Spalding*.

(6.) *Ibid. f. 513. a. n. 40.*

Ivo Talbois seised it, turns out the English, and puts in Monks of *Anjou*.

The Abbat of *Croyland* claims the Priory in the Kings Court.

(7.) *Monast. Angl. Vol. 1. f. 307. col. 1. n. 30.*

Ivo Talbois is by the Conqueror confirmed in his Possession.

(8.) *Domest. f. 373. a. col. 1, 2. Tit. C. amores in Eur-wiescire.*

Afa, a Woman had all her Lands seized, though it doth not appear she had done any thing against the Conqueror.

(9.) *Sim. Du-*
nelm. col. 198.
n. 60. A. D.
1069.

nec venditione, facere nec forisfacere posset; post eorum vero separationem, ipsa cum omnis terra sua recessit, & eam ut domina possedit: Willelmus autem de Comitatu, tam de illa, quam de Tota terra ejus, Willelmum Mallet saisitum viderunt, donec invasum est castellum. Hoc attestentur, de omni terra Ase quam habuit in Eboracshire. Concerning all the Land of Afa the Men of the County do Witness, that it ought to be Robert Mallets, because she held it separate and free from the power of her Husband Bernulph, yea, when they were together, so that he could neither dispose of, or forfeit it, but after their parting or separation she went off with all her Land, and possessed it. But the Men of the County, save William Mallet, seized of her, and all her Land before the Invasion of the Castle, (that is, the Castle of York) this they witness concerning all the Land of Afa, which she had in Yorkshire. Mallet was Governor of York, and Vicecomes of Yorkshire, (9.) and when the Danes took York and the Castle, he, his Wife, and two Children, and few others had their Lives saved with great difficulty. What had this Woman done, to be made Prisoner, and have her Land seized? she fought not against the Conqueror, but in all probability behaved her self peaceably. What did far the greatest part of all the remote Counties in England? they neither fought, nor advised against William, yet had their Lands taken away.

(1.) *Arg. Antinorm. p. 63.*

(2.) *Pag. 27.*

(3.) *Arg. Antinorm. p. 64.*

(4.) *Placit. Coram. Rege Hill. 14 Ric. 2. Rot. 50. Warm.*

The Suit between the King and the Prior of Coventry.

(5.) In his Additions, p. 15.

(6.) *Jus Angl. ab antiq. p. 15.*
in his Additions.

Next he goes on to the saying of Judge (1.) *Shardelow, Le Conqueror ne vient pas, &c.* The Conqueror came not to oust those who had a Right Possession, but to dispossess those, who wrongfully had enjoyed any Land to the disherison of the Crown. This we have heard of before, in Mr. *Petit's* Preface (2.) to the *Ancient Rights, &c.* and if the Reader thinks there is any weight in that wonderful saying, he may receive satisfaction in the Answer to that Book, f. 13. A.

After this he brings a (3.) Record of a memorable Suit between the King and the Prior of Coventry in the Fourteenth of (4.) *Rich. 2.* the King demanding a yearly Pension for one of his Clerks, as holding of him by Barony; The Prior denies he held any thing of the King by Barony, and pleads he held the Priory upon the foundation of *Leofric*, some time Earl of *Chester*, founded in the time of Saint *Edward* King of *England*, recites the Charter, and then proceeds in his Plea upon a Title of Descent. The Author of *Jus Anglorum ab antiquo* (5.) urgeth the same Record, and demands a Categorical Answer to it. They both, or one of them, had it out of the Monasticon, Vol. 1. f. 305. col. 1. n. 20.

In placito (6.) inter Regem & Priorem de Cobentre de annua pensione uni clericorum Regis, ratione novae Creationis ejusdem Prioris quousque, &c. Prior venit & defendit vim & injuriam & quicquid est in contemptu Domini Regis, &c. non cognovit Ecclesiam suam beatam *Mariæ de Cobentre* fore Ecclesiam Cathedralē, nec ipsum Priorem tenere aliquid de Domino Rege per Baroniam prout pro Domino Rege in narratione sua proponitur, & dicit quod tenet Prioratum prædictum ex fundatione cujusdam *Leofrici* quondam Comitis *Cestriae*, qui Prioratum prædictum fundavit Tempore Sancti *Edwardi* dudum Regis Angliae per cartam in hac verba.

Anno Dominica incarnationis 1043. ego Leofricus Comes Cestriae, &c. and then sets forth the Foundation, and that he gave unto it in several Counties, twenty four Towns, &c. there named, and then says *cum hiis omnibus Rex Edwardus & ego libertates huic Monasterio dedimus; ita ut Abbas ejusdem loci, Regi Angliae sit subiectus*; and so proceeds to the second part of his Plea and Title by Descent.

The Priors
Plea.

- A (7.) Ibidem recitatur Charta ejusdem regis Edwardi, quas Donationes & Concessionem diversi alii Reges confirmaverunt, & dicit quod postea per processum temporis nomen Abbatie praedictae, divertebatur in nomen Prioratus, eo quod Leofricus ad tunc Abbas ibidem creatus fuit in Episcopum Cestriae, & ordinavit per assensum Monachorum ibidem quod Abbatia praedicta, ex tunc foret Prioratus, & quod superiores ejusdem Ecclesiae, forent priores successive in perpetuum, & dicit quod de ipso Leofrico, quia obiit sine Haerede, de corpore suo descendente, Advocatio Ecclesiae Praedictae, tempore Willielmi Conquestoris Angliae, cuidam Hugoni Comiti Cestriae ut Consanguineo & heredi ipsius Leofrici, viz. filio Erminilde sororis ejusdem Leofrici, & de ipso Hugone, cuidam Ricardo, ut filio & heredi, & de ipso Richardo cuidam Ranulpho ut consanguineo & heredi, viz. filio Matildis sororis praedicti Hugonis, & de ipso Ranulpho, cuidam Ranulpho, ut filio & heredi, &c. The (8.) Prior further pleads, that the Advowson of the Priory went along with the Descendents, until at length it was given, and came into the hands of King Henry the Son of King John, and his Heirs for ever, &c. Praedictus Prior sine die.

(7.) Ibid. p. 16.
Arg. Antinorm.
p. 65.

(8.) Ibid. p. 17.
and p. 66.

From this great Record (as he calls it) our Argumentator says it is clear and evident.

(9.) Arg. Antinorm. p. 67.

- D First, That Leofric was Earl of * Chester in the Reign of King Edward the Confessor, and that he dying without Issue, the Earldom of Chester and Right of Advowson of the Priory of Coventry in the time of William the Conqueror, descended to Hugh Earl of Chester, as his Cousin, and Heir to Leofric, as being the Son of Erminilde Sister of Leofric; and that from Hugh descended Richard his Son and Heir, and from Richard descended Ranulf as Cousin and Heir, that is the Son of Maud Sister of Hugh, and from that Ranulph another Ranulph his Son and Heir.

From the
Priors Plea
he observes
(as he says)
three evident
things.

- E Secondly, That (1.) if William when he came in, made an absolute Conquest, this Title had been impossible to have been maintained.

(1.) Ibidem.

- F Thirdly, (2.) That the Plea of the Prior was allowed; for the Record saith, *Praedictus Prior sine die*, and the Advowson aforesaid did descend. And here he adds, That 'tis observable, that Judgment being given upon solemn Debate and Trial, neither the Judges nor Kings Council, so many hundred years ago, as in the Age of Richard the Second, knew any thing of this new received Notion of a new Conquest.

(2.) Ibid. p. 67.

* He was Earl of Mercia, but was called sometimes Earl of Chester, sometimes Earl of Leiceſter, because of his often Residence at those Places.

Both parts of
the Priors
Plea false.

The Prior of
Coventry was
a Baron.

(3.) *Cl. 11 Ric.*
2. m. 13. *Dors.*

(4.) *Seld. Tit.*
Hon. f. 60.

(5.) *Ibidem, f.*
604, 605, 606.
607.

* *Monast.*
Angl. vol. 1.
f. 304. col. 1.
n. 10.

(6.) *Rot. Cl.*
13. *Hen. 3.*
m. 3.

(7.) *Monast.*
Angl. vol. 1.
f. 305. col. 1.
n. 50.

(8.) *Pety's*
Ancient
Rights, &c.
p. 78. in
Append.

Leofric had
Issue, his Son
and Heir Earl
Algar.
(9.) *Dugd.*
Baron. Tit.
Earl of *Mercia*
before the
Conquest, and
he had Issue,
Earl *Edwin*
and Earl *Mor-*
char.

(1.) *Ingulph.*
Histor. Croy-
land, f. 510.
b. n. 40.

(2.) *Ibidem,*
n. 50.

(3.) *Ibid. f.*
511. a. n. 10,
20.
Ingulph was
installed Ab-
bat of *Croy-*
land, Anno
Dom. 1076.

This Plea consists of two parts; First, That the Prior of *Coventry* held nothing by Barony; Secondly, A Title of Right of Advowson of the Priory by descent. And I do affirm they were both false.

First, The ~~Prior~~ of *Coventry* as ~~Prior~~ was a Baron, and summoned to Parliament as such, *Selden Titles of Hon. f. 602.* in (3.) the Eleventh of *Richard* the Second, but three years before this Suit, and so continued until the time of the Dissolutions of Monasteries, and no Abbats or Priors after that time came to Parliament, (4.) but such as held by Barony; and from this Attendance he might have been excused, (5.) if he had pleaded in Parliament, and could have made it appear he held not by Barony, as some others did, that thought it a burthen to them and their Houses.

The twenty four Maners or Towns, and, * one half of the Town of *Coventry*, given by *Leofric* to this Priory, were undoubtedly a Barons Estate, and therefore this as well as all Bishopricks, and other Abbies and Priories, was most certainly put under the Tenure of Baronage by the Conqueror; and it appears upon Record, (6.) that in the Thirteenth of *Henry* the Third the Prior Compounded with, or Fined to him, for the Service of ten Knights Fees at 40 s. every Fee in the Counties of *Warwick* and *Leicester* only, whereas some of the Maners or Towns *Leofric* (7.) gave to it, were in *Gloucestershire* and *Worcestershire*, in *Hampshire* and *Cheshire*; which notwithstanding in the Seventeenth of *Edward* the Third, the (8.) Prior of *Coventry* put in such a false Plea as this, That he and his Predecessors held all their Lands and Tenements, by the Service of two Knights Fees only, and that the King nor his Progenitors were ever seized of more, or other Services by the Prior or his Predecessors, by Fine, or Service by the Body of Men.

Secondly, I affirm the Title by Descent to be utterly false, for this very Earl *Leofric*, the Founder of this Priory, had Issue, *Algar* Earl of *East-Angles* first, then after his Fathers death Earl of (9. *Mercia*, and *Algar* had two Sons, (9.) *Edwin* Earl of *Mercia* after his death, and *Morchar* Earl of *Northumberland*, both living, and had their Estates and Lands taken from them after the Conquest, and a Daughter named *Lucia* Married to *Ivo Talboys*, with whom King *William* gave him all her Brothers Lands in *Holland* in *Lincolnshire*.

Anno Domini 1053. Godvinus comes buccella gustata suffocatus interiit, Comitatus West-Saxonie Haroldo filio suo datus est, & Comitatus Haraldus (id est) East-Saxonie Algaro (1.) filio Leofrici Leicestrensis Comitatus est donatus.

Anno Domini 1057. Illustrissimus & optimus (2) Comes Leicestria Leofricus obiit, & apud Cobenteriam Monasterium suum, Quod Construxerat, & maximis donariis, & privilegiis plurimum ditaverat, sepultus requiescit.

Anno Domini 1059. Strenuissimus Comes (3.) Algarus, invictus, & populo terræ, sincerissimo affectu amatus obiit, & Cobenterie juxta patrem positus requiescit inhumatus. Relictis Tribus liberis, duobus filiis videlicet, Edwino & Morchario, & unica filia quæ nunc superest, Comitissa Lucia.

Ivoni

Ivoni Talbeis post necem duorum fratrum & Comitum, Edwini, & Oswaldi (4.) Luciam eorum sororem cum omnibus terris & tenementis (which they had left) ad eosdem pertinentibus, inclitus Rex Willielmus dederat in uxorem, quæ in Hoplandia potissime jacebant, &c.

(4.) Ibidem, f. 513. a. lin. 2.

A So much for *Leofric* and his Issue, now let us see what and who *Hugh* Earl of *Chester* was, that is said in this Plea to have been Cousin by Blood, and Heir to this Earl *Leofric*, which is as false as that he died without Issue.

Hugh Earl of *Chester* was not Cousin by Blood, or Heir to *Leofric*.

The first Earl of *Chester* after the Conquest was (5.) *Gherbød* a *Fleming*, who being sent for into *Flanders*, and having obtained leave of the King to go thither, he there fell into his Enemies hands, and was kept there, by a long and hard Imprisonment.

(5.) *Ordel. Vital. f. 52. A. Gherbode a Fleming first Earl of Chester after the Conquest.*

B In whose absence King *William* gave this Earldom to (6.) *Hugh de Abrincis*, a Person of great note amongst the *Normans*, an expert Soldier, and his Sisters (7.) Son; his Father was (8.) *Richard de Abrincis*, surnamed *Goz*, and he was Son to (9.) *Tursten* surnamed *Goz*, who (9.) was Son to *Ansfrid* the Dane.

(6.) Ibidem. The Genealogy of the Earl of *Chester*.

(7.) *Hen. de Knighthon, col. 2376. n. 60.*

(8.) *Order. vit. ut supra.*

(9.) *Gemet. lib. 7. c. 6.*

(1.) (2.) (3.) *Order. vital. f. 52. B. Gemet. lib. 8. c. 38.*

C This Earl *Hugh* Married (1.) *Ermentrude* Daughter to *Hugh* Earl of *Clermont* in *Beauvois* in *France*, and by her had *Richard* Earl of *Chester*, who was (2.) drowned, having (3.) no Children, with *William* Son to King *Henry* the First, in a Shipwrack coming out of *Normandy*.

D To this *Richard* succeeded *Ranulph de Bricasard Vicecomes Baiocensis*, Viscount of *Bayeux* in *Normandy*, his Cousin German, and Heir, by *Maud* his Fathers Sister: and to him succeeded *Ranulph* his Son, called *de Gernons*, &c.

(4.) *Order. vit. f. 851. A. 871. A. Gemet. ut supra.*

Having considered the Title of Descent in this great Record, his first (5.) clear and evident Deduction from it, That *Leofric* died without Issue, and that *Hugh* Earl of *Chester* was his Cousin and next Heir, as being the Son of *Ermenild* the Sister of *Leofric*, appears to be false.

(5.) *Arg. Antinorm. p. 67.*

E Secondly, It appears that the Title of the Advowson of the Priory, could not have been maintained by this Descent, if it had ever been well examined and thoroughly debated.

F Thirdly, If upon solemn Debate and Trial Judgment was given for the *Prior*, (as by the words *prædictus Prior sine die*, it appears it was) 'tis certain the Judges and Kings Council understood and knew as little of this Descent and Tenure by Barony, as they did of the absolute Conquest.

Further, Our Author gives (6.) some few Instances of the very many he could (as he says) out of *Domesday* Book, to satisfy his Reader, that there were many Proprietors of *Englishmen*, who had their Free-hold Estates upon Titles Paramount to any of the Conquerors Donation; and these he takes (as he says) from the indu-

(6.) *Arg. Antinorm. p. 69.*

strious

* *Ibid.* is exactly like his own.

(7.) *Arg. Antinorm.* p. 69. *Fus Anglor.* p. 80.

The disingenuous and false practices of this Writer, and his Worthy Friend.

(8.) *Domesd.* f. 44. b. col. 2.

☞.

(9.) See *Glossary*.

* That is *Cerdeford* and *Eschetune*.

The false inference of the Author of *Fus Anglorum ab antiquo*.

(1.) *Domesd.* f. 48 a. col. 1.

* *Fus Angl. ab antiquo*, p. 96.

☞.

strious and worthy Gentleman Mr. *Atwood* in his Book Entituled *Fus Anglorum ab antiquo*, where in his * excellent History of the Conquest amongst others, he hath these following.

(7) *Surrey.*

Hugo de Port (7) was a very great Proprietor, as may be found under the Title, *Terra Hugonis de Port*. Many Maners he had : and as appears in *Hampshire* he had at least two Maners, *Cerdeford* and *Eschetune*, from his Ancestors, before *Williams* entrance.

These Gentlemen never cite any thing particularly or exactly out of *Domesday*, so as it is a great trouble to trace them : *Hugo de Port* had no Title or Land in *Surrey*, as is evident from *Domesday Book* in that County, but the Title he mentions is to be found in *Hampshire*, where he held much Land of the King, and many Maners, amongst the rest these two above mentioned, which are there entred as here it followeth.

(8.) *Hantescire.*

Terra Hugonis de Porth, in Fordingbridge Hund.

Hugo de Port tenet Cerdeford. Willielmus de eo, duo lib. hom. in Alodium Tenuerunt pro duobus Man. de R. E. Tunc & nunc gld. pro 5 Hid. Terra est 4 Caru. in Dominio sunt 2 Caru. & 20 Bord. & 4 Servi cum 1 Caru. & quater 20 acr. prati & 11 T. R. E. & nunc val. 4 lib. cum Recep. C. sol.

Hugo de Port holds *Cerdeford*, *William* holds it of him, two Freemen held it in (9.) *Alodium* for * two Maners of King *Edward*, then and now it was and is taxed for five Hides, the Lands contain four Carucates, there are two in Demeasns, and twenty Bordars, and four Servants, with one Carucate, and fourscore and eleven Acres of Meadow in the time of King *Edward*, and now it is worth Four Pounds, when *Hugo* received it, it was worth an Hundred Shillings. Here is no Title paramount to the Conquerors Donation, for *Hugh de Port* held it not before that time, but two Freemen held it of King *Edward*.

(1.) *Hantescire.*

Terra Gilberti de Breteville.

*Gilbertus de Breteville Ten. de Rege unam Hidam in Sumburn Hund. Hanc Alnodus Cenuit de R. E. &c. * Hanc Hidam Calumniatur Hugo de Port dicens eam pertinere ad sua Maneria Cerdeford & Eschetune, & ibi eam tenuerunt sui antecessores, & Hoc Testatur Totum Hund.*

Gilbert de Berteville holds of the King one Hide in *Sumburn* Hundred, *Arnold* held this Hide of King *Edward*, &c. *Hugh de Port* claims this Hide, and says it belongs to his Maners of *Cerdeford* and *Eschetune*, and that his Antecessors held it there ; This the whole Hundred doth Testifie.

Our

Our Author and his industrious and worthy Gentleman lay hold of the word Antecessors or Ancestors only, and impose upon their Readers in the meaning of it, and using it as if they were Ancestors in Blood, and such as *Hugh de Port* was Heir unto; but such they were not, for we see in the first entry of *Cerdeford*, that *Hugh de Port* held it after the Conquest, and two Freemen before the Conquest of King *Edward* for two Maners, so that Ancestors here were only Antecessors, or Predecessors in Possession, and such as held the Maners before *Hugh* had them, and not Ancestors in Blood, from whom they descended to *Hugh*. See more in the *Glossary* upon the word, for the confirmation of this.

Antecessors in *Domesday* are only Predecessors in Possession, no Kindred or Ancestors in Blood.

His second Instance, (2.) the words these. The Earl of *Moreton* a very powerful Prince, as I may call him, held *Estreham* in *Tenrige* Hundred in the time of King *Edward*, he enjoyed several other great Possessions of the gift of *William*. I doubt not indeed but he was a Norman born, yet he was here before the entrance of the Normans, and might, not improbably be in favour with King *Edward* the Confessor, who was all Frenchified; he to be sure had some Lands in *England*, which he enjoyed not from *Williams* Division: Fine Shuffle! he was half Brother to the Conqueror, and had in *England* of his Donation * Seven hundred ninety three Maners, whereof this was one, he was Earl of *Moreton* in *Normandy*, and *Cornwall* in *England*. The true Entry of this Town or Maner in (3.) *Domesday* Book is as followeth.

(2.) *Antinorm.* p. 70. *Jus Anglor.* p. 81. In the Margin of this Book, thus, *Ipse Comes Tenet Estreham, T. R. E.*

* *Domesd.* in several Counties.

(3.) *Fol.* 34. a. col. 2.

(3.) *Sudrie.*

Terra Comitum Moreton.

Ipse Comes ten. Estreham T. R. E. se defend. pro 5 hid. nunc pro Nicholo, Herald. tenuit 1 hid. & dim. Canonici de Waltham 1 hid. & dim. tres sochi tenent. 11 hid. & quo voluerunt cum eis ire potuer. Tract. est 11 Car. ibi sunt tres villi & 3 Bordar. cum 2 Car. & dim. T. R. E. val. 30 sol. & post 15 nunc 43 sol.

Surrey.

The Land of the Earl of *Moreton*.

The Earl held *Estreham* in the time of King *Edward*, it was Taxed at the rate of five Hides, now nothing; *Herald* held one Hide and an half, the Canons of *Waltham* one Hide and an half, three *Sochmen* held two Hides, and might go with them whither they would, (that is, where ever they were themselves, they might dispose of their Lands) the Land is two Carucates, there are three Villanes, and three Bordars, with two Carucates and an half; in the time of King *Edward* it was worth Thirty Shillings, afterwards Fifteen, now Forty three Shillings.

Ipse Comes Ten. Estreham, Ten. is here put for *Tenet*, not *Tenuit* as in their Margins, for *Herald Tenuit*, the Canons of *Waltham* and three *Sochmen Tenuerunt*, and therefore the Earl according to the Title, that they were his Lands, was the present Possessor of *Estreham*;

Tempore, Regis, Edwardi.

ham; which was before the Conquest possessed by *Herald*, the Canons of *Waltham* Abby, whereof he was Founder, and three *Sochmen*: and further they joyn the three Letters *T. R. E.* to the first Sentence, which belong to the second, as is clear by the word *modo*, that is a Relative to them. Here cannot be the least colour of any Title paramont to the Donation of the Conqueror.

(4.) *Antinorm.*
p. 71. *Fus*
Angl. p. 83.

The Third Instance is in these (4.) words.

Hampshire.

Ralph Mortimer held several Possessions, some of which he had, *Jure hereditario*, from before the Reputed Conquest, *Ipsle Radulphus tenet Ordie.* This Maner *T. R. E. Extra Ecclesiam emptum fuit, eo pacto, & Conventione, ut post tertium heredem, cum omni pecunia, Munerium Ecclesia Sancti Petri recuperet, nunc qui tenet Radulphus est tertius heres.*

(5.) *Fol. 46. b.*
Cel. 2.

The true Entry of this Maner in *Domesday* (5.) Book is as followeth.

(5.) *Hantefire.*

Terra Radulfi de Mortemer.

Radulphus de Mortemer ten. Ordie. Cheping tenuit de Rege E. Tunc & modo se defend. pro una hida Terra est 5 Car. In Dominio sunt 3 Car. & unus villanus, & 27 Bord. cum 2 Car. ibi Ecclesia & 24 Servi & 3 Molini de 60 solid. & 5 acr. prati pro herbagio 40 sol. & 8 Hage in Wincestre de 65 sol. & 4 Den. T. R. E. valab. 25 lib. & post 10 lib. modo 15 lib.

Hoc Manerium T. R. E. extra Ecclesiam emptum fuit eo pacto & Conventione ut post tertium heredem cum omni pecunia, M. Ecclesia Sancti Petri de Episcopatu reciperet, Nunc qui tenet Radulfus est tertius heres.

Hampshire.

The Land of *Ralph de Mortemer.*

Ralph de Mortemer holds *Ordie.* *Cheping* held it of King *Edward*, then and now it was Rated or Taxed at one Hide, the Land is five Carucates, in Demeasn there are three Carucates, and one Villan, and seven and twenty Bordars, with two Carucates; there is a Church, and twenty four Servants, and three Mills, of Sixty Shillings, and five Acres of Meadow; For *Herbage* Forty Shillings, and eight Houses in *Winchester* of Sixty five Shillings and four Pence. In the time of King *Edward* it was worth Twenty five Pounds, afterward Ten Pounds, now Fifteen Pounds.

These Houses belonged to this Maner.

This Maner in the time of King *Edward* was bought from the Church, on Condition, that after the third Heir, the Church of *St. Peter* should receive the Maner from the Bishoprick with all the Stock; *Balph* that now holds it, is the third Heir.

This

A This Maner in all probability King *Edward* had sold out for three Lives, and then gave it to the Bishoprick of *Winchester*, to hold for that term, and after the expiration of those Lives, to his Church of *St. Peter at Westminster*. But whether it was so or not; by the word Heir here is only meant and intended a Successor, not an Heir by Blood or Affinity, and by those words *Ralph* which now holds it, is the third Heir, can only be so understood as his was the third Life, or that he was the third Successor.

B For *Cheping* the *Saxon* held it before the Conquest of King *Edward*, and *Boztemer* the *Norman* held it after the Conquest. This *Cheping* held several Lands of the King and Bishop of *Winchester* in this County; Of King *Edward* he held *Bertune*, *Ordie*, *Sirelei*, *Botelie*, *Chenol*, *Stradselle*, *Bedeles*, and *Candowre*; He held in *Swantune* one Hide of the Bishop and Monks of *Winchester*, which was granted him for his Life only, and then to return to the Church; He also held *Dreburne* of the Bishoprick of *Winchester*, *Non potuit recedere ab Ecclesia*; He held of Earl *Herald Silcestre* in *Alodium*. All these Towns, Maners, or Lands, are found to be under the Title of *Terra Radulfi de Boztemer* in *Hampshire*, and likewise the Lands of several other Men before the Conquest. *Ezi tenuit, T. R. E.* another *Ordie*, *Elvinus Tenuit in Alodium de Rege E. 2. bidas in Nortune. Edric tenuit Anne T. R. E.* These are all under the same Title, and were *Boztemers* Lands after the Conquest; from whence it is more than evident, that he was only Successor, which is expressed here by the word Heir, and that he held his Lands by the Donation of the Conqueror, and no otherwise.

C The (6.) words of his Fourth Instance are these,

D *Dorsetshire.*

(7.) *Terra Cainorum Regis, in Jus Angl. &c.*

Ten Thains hold *Chimedecome ipsi Tenuerunt T. R. E. pro, i Manerio.*

E These Thains were the Kings Ordinary Ministers or Servants, which he employed in his Country Affairs and Business, in managing and looking after his Maners and Lands, his Forests, his Fishings, &c. his Deer, his Beeves, his Dayries, Cows, Horses, Sheep, Hogs, Corn in the Granaries, &c. some others were employed in Hunting, Hawking, &c. some were Bowyers, Carpenters, and other Mechanics and Artificers; and many were small Officers in the Court, those especially that had Lands given them, which they nor their Fathers held in the time of *Edward* the Confessor, others in Cities and great Towns. Now it was most necessary for him to employ the *Saxons* in these Services, for the *Normans* knew not the Country, nor understood the Lands, and could not perform the most of them; And it was then the common practice of this and other Nations, instead of Sallaries or Wages, not only for Princes, but also other great Men, and Gentlemen of Estates, to assign Lands to their Servants, and they made the best of them, by letting them out to

(6.) *Antinorm.*
p. 71. *Jus*
Argl. p. 86.

(7.) *Domesd.*
f. 84. a. col. 1.

Drudging People, either for Mony, or some part of the Product of them, there being then but little Mony, and Trade not much regarded, Land was the only thing that made all Payments, and gave Credit.

The Crown Lands without doubt he received with the Stock upon them, and his Court (as the use was then) was to be supplied with Venison, Wild Boars, Hogs, and such other Provisions as the Woods and Forests afforded, in their Seasons, &c. and therefore could not find out more proper Servants, nor more fit for his Business, than such as had been employed by King Edward; and though the same Persons did hold the same Lands in the Conquerors time, that they did in his, yet that the Tenure was the same, and as easie as in King Edwards days, no Man, I think, that hath once read this Answer, will readily believe it. 'Tis most certain they had a new Landlord, that they were his Servants and Ministers, that he gave them their Employments, and also the Lands they possessed in consideration of them; so that it were not possible for these sort of Men to have a Title paramount to the Donation of the Conqueror, and we may reasonably conceive that their Tenures under him were much more rigid and hard, than they were under King Edward, and that though they were so, yet they thought it at that time, a very great favour and happiness to them, that they were continued in their Places. That the **Chanes**, the **Caini & Serbientes Regis**, contained under the Titles of **Terra Cainozum**, or **Serbientium Regis**, in almost every County in **Domesday Book**, were the Kings **Ministerial Officers**, and **Servants** of less Note in Court, Cities, great Towns, and the Country, let our Author see his (8.) great and ever famous Mr. *Selden*, for whose Memory he hath the highest Regards, in his Notes upon *Eadmer*, fol. 170. n. 20, 30, 40, 50. and here in *Appendice*, N. 10.

(8.) *Antinorm.*
P. 37.

(9.) *Ibidem*,
P. 71.

His Fifth (9.) Instance is of two Kings Thains in *Staffordshire*, but as in *Dorsetshire* above, so here he hath concealed the Title, under which they were contained, though his Industrious Friend (by what chance I know not) did not in these two Counties.

Alric holds *Stagrisgeshowe* } *Ipsi* has terras tenuerunt, T. R. E. Four-
Afwold holds *Chochesdene* } teen more hold Titles Prior to King
Williams.

(1.) Fol. 250.
b. Col. 2.

True Entry in (1.) *Domesday-Book*.

Statfordscyre.

Tit. XVII. Terra Chenwin, & aliorum Cainozum Regis.

Chenwin tenet de Rege tres hidas in Codeshall. ipse ten. T. R. E. &c.

Alric Ten. *Stagrisgeshowe*, &c. } *Ipsi* has terras tenuerunt, T. R. E.
Afwoldus Ten. *Chochesdene*, &c. } The Fourteen others that held
Lands (of so many) of Titles Prior (as he says) to King *Williams*,
are these under this Title, and were the Kings Servants, as before, in
Dorsetshire, and therefore they had no Title paramount to the Conquerors Donation.

His

His Sixth and last (2.) Instance is of one *Uetred*, who held several Lands in the time of King *Edward*, as in the time of King *William* the First. Besides several Dispossessed, who have their Titles allowed: they have both been so disingenuous, as in this Instance, to conceal the Title of the Kings Servants in *Yorkshire* where this * *Uetred* is to be found. This *Uetred* was one of the (3.) Kings Thanes or Servants in *Yorkshire*, and what Lands he held under that Title, were such and in the same state other Thanes held them in other Counties, and therefore he could have no Title Prior to that of King *Williams*. Such (as he says) were dispossessed, are under the Title of (4.) *Clamores in Ewerwicshire*, and the Controversie was between *Norman* and *Norman*, upon King *Williams* Donation, whether they had their Possessions or Estates accordingly, not one syllable of any Claim of an *English-Saxon*, allowance of their Titles, or Restitution of their Estates, as these Gentlemen designed to impose, under general words, the belief of it, upon their Readers.

(2.) *Antinorm.*
p. 62. *Fus*
Angl. p. 90.

* See *ibidem*,
p. 90. where
Uetred and
this Entry is
to be found,
amongst o-
thers which
were, though
not there na-
med the Kings
Servants.

(3.) *Terra Tai-
nor. Regis in
Ewerwicshire*,
Tit. 29.

(4.) *Domesd.*
f. 373. a col. 1.

(5.) *Arg. An-
tinorm.* p. 72.

He concludes (5.) that these six Instances are enough (referring the more Curious to Mr. *Atwoods* Book, or to the great Survey it self) to bear out his Assertion, that the *English* had Estates and Fortunes still in their hands, which they held in King *Edwards* time, and did not derive under King *Williams* Title. Why were they then entred in *Domesday*, as holding of him? Or such other Persons as did hold immediately of him?

But your Industrious Worthy Gentleman must not go off thus; Besides these Instances you have thought fit to make use of, he hath very many others, which ought not to pass without Examination, lest it be said afterwards, that you were an Injudicious Person, and knew not how to make choice of such as were most apposite to prove the point.

He begins with (5.) *Surrey*, and says *Oswald* holds *Michelham*. *Idem Tenuit, T. R. E.* and no more.

(5.) *Fus Angl.*
p. 81.

In (6.) *Domesday-Book* thus.

(6.) *Fol.* 35. a
col. 1.

Terra Ricardi filii Gilberti Comitiss.

Oswaldus tenet de Ricardo Michelham, isdem tenuit de Rege E. &c. Here we see the Interest of King *Edward* in this Mans Land, (that is) the Fee or Dominion of it was given to *Richard* of *Tonebridge* Son of *Gilbert*, Earl of *Brion* in *Normandy*, one of King *Williams* considerable Assistants in the Conquest; and I leave it to the Reader to judge whether he thinks *Oswald* did not make a Composition and Terms with *Richard* to have his Estate again, or held it not of him by a new and more severe Tenure than he did before, or it may be both.

Then he says (7.) *Seman* holds in *Mideham*, and no more in the Survey, *Tenuit de Rege Edwardo, nunc tenet de Willielmo Rege.* And this is certainly a new Title.

(7.) *Ibidem*,
Fus Anglor.

Then

Then he comes to the Kings **Chains**, but hath concealed the Title, and says only, **William** the Hunter holds *Littleton*, **Oswald** holds *Pechingford*, **Seman** holds one Rood in *Copedorn*, **Oswald** holds *Feceham*, **Theoderick** the Goldsmith holds *Clevintune*, **Chetel** the Hunter holds *Lodeford*.

(8.) Fol. 36. b.
Col. 2.

In (8.) *Domesday-Book* they are thus entred in order,
he hath transposed them.

Sudrie.

(9.) Ibidem.
Tit. 36.

(9.) *Oswaldus, Teodoricus, & alii Serbientes Regis.*

Oswaldus tenet de Rege Pechingeorde, ipse tenuit de Rege, E. &c.

* Observe his
Industry in
concealing
this Entry, &c.

In Copendone Hund. ten. Seman, unam virgatam terra (which was the fourth part of an Hide, not a Rood, the fourth part of an Acre) *quam tenuit de Rege E. sed ex quo venit Willielmus Rex in Angliam* * *Serbibit Oswaldo, redd. ei 20 den. hic se potuit vertere quo voluit T. R. E. Ipse Oswaldus ten. Feceham ipse Tenuit T. R. E. &c. Teodricus aurifaber Tenet de Rege Chenintune ipse Tenuit de Rege E. &c. Chetel venator tenet Lodeford, Pater ejus tenuit de Rege, E. &c. Willielmus venator tenet de Rege Liteltone, ipse tenuit de Rege, E. &c.* These had been King **Edwards** Servants, and they were continued in their **Employments** and **Salaries** by King **William**, which were in Lands holden of him, and therefore had a new Title from a new Landlord, and as may be reasonably presumed, upon worse terms than under King **Edward**.

Hamsbire.

(1.) *Fus Anglor.* p. 82.

Terra (1.) Cainorum Regis.

Alwi the Son of *Saul* holds *Tederly*, his Father held it in *Alodium* of King **Edward**, *Uluric* holds *Locherley*, four *Englishmen* hold *Wallop*, *Edmund* holds Lands of the King, &c. after the same manner to the number of thirty three of the Kings **Tains** and Servants in *Hamsbire*, the Isle of *With*, or *Wight*, and about the New Forest.

In *Domesday-Book* thus.

Hantescire.

(2.) Fol. 50. a.
Col. 1.

Terra (2.) Cainorum Regis.

1. *Alwi filius Saulf ten. de Rege Tederleg. pater ejus Tenuit in Alodio de Rege E. &c.* but how he held it of the Conqueror it is not said there.

2. *Uluric tenet Locherley de Rege pater ejus tenuit de Rege E. pro Manerio, &c.*

3. *Quatuor Angli tenent de Rege Wallope, pater eorum tenuit in Alodium de Rege E. &c.*

4. *Edmundus*

4. Edmundus tenet de Rege Mulceltone, pater ejus tenuit de Rege E. &c.

And thus, after this manner are all his Citations in this County, and so in the New Forest.

In (3.) Nova Foresta & circa eam.

(3.) Ibid. fol. 51. b. col. 1.

Terra Cainozum Regis.

1. Femina Saulf tenet de Rege Hoburn, Saulf tenuit de Rege E. &c.

2. Ulgar habet de Rege unam virgatam Terræ in Melleford, ipse Tenuit de Rege E. And so for others.

Terræ (4.) Cainozum Regis in Insula de With.

(4.) Ibid. fol. 53. b. col. 2.

1. Oriant ten. Celvecrote pater ejus Tenuit de Rege E. &c.

2. Alsi ten. de Rege Abaginge ipsemet tenuit de Rege E. in alodium, &c.

And so of others in this Island; And note, that all who held under the direct and immediate Title of the Terra Regis, or Kings Lands, or the Title of Terra Tainorum Regis, did hold of the King, whether it was expressed or not, the Title under which they held being a sufficient demonstration of that.

(5.) Barkshire.

(5.) Fus Anglor. P. 84.

Terra Odonis & aliorum Cainozum, left out here.

1. Walter holds one Hide in Ceneleberie, which King Edward gave his Ancestors, in the Margin, de firma sua solut. ab omni Consuetud. propter Forestam Custodiendam excepta forisfactura Regis, &c. He was the Kings Forester.

2. Edward holds one Hide in Coserige, he held it in Alodium of King Edward.

3. Alward the Goldsmith holds Sotesbroc. In the Margin, pater ejus tenuit de Regina Edw. and so for others he mentions in this County.

In Domesday (6.) Book thus.

(6.) Fol. 61. b. col. 1.

Berrochescire.

Terra Wallerii, f. Other.

Walterius filius Otherii tenet dimid. Hidam quam Rex Edwardus dedit ejus Antecessori, de firma sua, & solutam ab omni Consuetudine, propter Forestam Custodiendam, excepta forisfactura Regis, sicut est, Latro-

Lutrocinum, & Homicidium, & Henafaria, & fracta pax val. 5. fol.
And then follows.

(7.) *Ibid. fol.*
63. b. 1. col.

Terra (7.) **Donis & aliorum Tainorum.**

1. *Edwardus Tenet de Rege* (left out in our Author) *1 bidam in Coserige, ipse tenuit in Alodium de Rege. E.*

2. *Alwardus Aurifaber tenet de Rege Sotesbroc, pater ejus tenuit de Regina Edid, &c.* She was King Edwards Queen.

(8.) *Fus Angl.*
p. 87, 86, 87,
&c.

At this rate he rambles through (8.) fifteen Counties, and leaves out the Title of *Terra Tainorum*, or *Servientium Regis*, under which very near all the Persons he musters up did hold, in all of them, except three; And always says only such an one holds, and such an one holds, but not of the King, he never answers the meaning of *Domesday Book*, or the Conquerors Survey, which either by the Title, or express words besides the Title, (such as) *tenet de Rege*, or *Tenet de Comite Rogero*, or *de Radulpho Mortimer, &c.* discovers whose the Lands, or at least, the Fee of the Lands was.

(9.) *Ibidem,*
p. 12.

And having pleased his own Fancy, and cheated his Reason and Understanding, he says, in these (9.) fifteen Counties (of thirty described in *Domesday*) there were above one hundred and eighty Freeholders, who derived not under King Williams Title.

Here I shall ask him (notwithstanding he hath industriously endeavoured to conceal it) whether very near all these Persons he hath mustred up in the several Counties were really King Williams Servants and Officers? Secondly, Whether he gave them their Employments, or which is all one continued them in them? Thirdly, Whether he gave or continued to them the Lands which they held for these Services and Employments? Fourthly, Whether by his great power he might not turn them out of their Employments and Estates, and put in others? If these Persons were his Servants and Thains, if he gave them, or continued them in their Employments and Lands, if he could take them away, and give them to others at pleasure, which no man of sense or reason can deny, or if *Domesday-Book* and the Survey be true, what becomes of these hundred and eighty Freeholders, that derived not under King Williams Title? they are vanished, but his most notorious Industry, and his Worthy Usage of one of the greatest and noblest Records of the Nation, do still remain.

(1.) *Arg. Antinom. p. 72.*
(2.) *Ibidem,*
p. 73, 74.
(3.) *Vid. Append. n. 2, and 3.*
King William restored Church Lands, but altered the Tenure.

Having urged the six Instances he took upon the Credit of his Industrious and Worthy Friend, our Author offers (1.) three more, from so many Charters of King William. The two first are Charters of Restitution of Lands to the Church of (2.) St. Pauls, and the Abby of *Westminster*; This we do acknowledge, and yet nevertheless he was a Conqueror; He (3.) Restored all Church Lands, but changed the Tenure, and put most of them under Military Tenure, that before were holden in *Franc. Almoign*, or *Pure Almes*, and not only so, but changed likewise the Possessors of them, for in a short time after the Conquest most of the Bishops, Abbats, and great

great Churchmen were *Normans*, the *Saxons* being thrust out and they put in, as doth appear in the History of *William* the First; and this was almost the same practice he used in disposing of Lay or Temporal Mens Estates, for the Fee of all these Estates remained in himself.

He turned out
Saxon Bishops,
and Abbats;
and put in
Normans.

A The third is the (4.) Charter of *London*. *William* King greeteth *William* Bishop, and *Godfrey* ~~Port-Rebe~~, or ~~Portgerebe~~, and all the Burgeses within *London*, **French** and **English**, and I grant that they be all Law-worthy, as they were in *Edwards* days the King, and I will that each Child be his Fathers Heir, and I will not suffer that any Man do you wrong, and God you keep.

(4.) Arg. An-
tinorm. p. 74.
in Saxon.

B Upon this Charter I shall observe, that these Priviledges were pro-
C cured by (5.) this *William* Bishop of *London*, who was very in-
ward with King *William*, and of his Council, as it was acknow-
D ledged in the Inscription upon his Monument in *St. Pauls* Church
which was erected by order of a Common * Hall. Secondly, I ob-
serve, that this Bishop died in the year 1070. and that this Charter
was granted before that time, and therefore no great stress can be
laid upon it, for the great Promises he made to the *English-Saxons* in
the beginning of his Reign, and at his first Entrance, he never much
regarded, when he had totally subdued the Nation. Thirdly, I
shall observe, that this Charter contained no other Priviledges,
than that the Burgeses should be Law-worthy, as they were in *Ed-
wards* days the King, that is, they should enjoy the Privileges that
belonged to them as Merchants, Tradesmen, Mechanicks, and Arti-
ficers, and meerly such, for the carrying on their own Business and
Employments, and the Laws, Usages, and Customs only that be-
longed to such Affairs, and by which they were managed and re-
gulated in his time; No Man can imagine they medled then with
D Politicks, or once offered to meddle with the Government of the
Nation, or directed King *William* how to Govern, or that they can
pretend he ever by this Charter could give them such liberty, or
permit them so to do; All they could expect or pretend to from
this Charter, was, the free use of their Calling, the enjoyment of
their Estates and Goods, and that their Children should be their
Heirs, and protection from Violence:

(5.) Godwin.
de præsul. p.
232.

* S. P. Q. Lon-
dinenf. posuit.

What was
granted to the
Citizens of
London by K.
Williams
Charter.

E He did not that I have read of, take away Merchants or Traders
Goods, in any City or Burgh, nor put them out of their method and
way of Trading, for that had been much to his disadvantage; He
built Castles and Cittadels in many of the Cities and great Towns,
and raised their Tolls and Customs, in some he doubled them, and
with the security of his many Garisons and a great Army, it was
more for his profit to maintain Trade than destroy it.

The Conque-
ror did not
take away
Merchants
Goods.
But increased
the Toll and
Customs of
Cities and
Burghs.

F T. R. E. val. (6.) *Eboraci civitas Regi 53 lib. modo C. lib. ad
presum.* In the time of King *Edward*, *Tork* paid to the King Fifty
three pounds, now One hundred by Weight.

(6.) Domest.
f. 298. a. col. 2.

T. R. E. (7.) *Oxeneford reddebat pro Theloneo, & Gablo & omnibus
aliis Consuetudinibus per annum Regi 20 lib. & 6 Sextaria Mellis, Comiti
Algaro 10 lib. adjuncto Molino quem infra Civitatem habebat, modo
reddit Oxeneford 60 lib. de 20 in ora.*

(7.) Ibidem,
f. 154. a. col. 1.

* A Sextary in Liquids, was an uncertain Measure, sometimes a Pint, sometimes a Quart, a Galon, four Galons, here I take it to be a Galon.

(8.) Ibidem, f. 56. b. col. 1.

In the time of King Edward, Oxford paid for Toll, Gable, and all other Customs and Payments, by the year to the King, Twenty Pounds, and six * Sextaries of Honey, to Earl Algar Ten Pounds, his Mill which he had in the City being added, now it pays Sixty Pounds of twenty in an Ore; it was a *Danish* word, and whether it was an Ounce in weight or Coyn, it is doubtfull, there were several sorts, one contained 16 Denarii or Pence, another twenty, another twelve, another thirty, an Ore and a Shilling in this manner of computation was the same.

A

T. R. E. (8.) Wallingford valb. 30 lib. & post 40 lib. & tamen Reddit de firma quater 20 lib. ad numerum.

In the time of King Edward, Wallingford was valued at 30 l. afterwards 40 l. now (that is at the time of the Survey) 60 l. besides the Farm Rent which it pays 80 l. by Tale.

B

(9.) Ibidem, f. 36. b. col. 2.

T. R. E. (9.) Dabat. (9.) Stanford 15 lib. modo dat ad firmam 50 lib. de omni Consuetudine Regis dat 27 lib.

In the time, &c. Stanford gave 15 l. now it pays Farm Rent 50 l. and for all Payments to the King 28 l.

(1.) Ibidem, f. 280. a. col. 1.

T. R. E. (1.) Snotingham redd. 18 lib. modo reddit 30 lib. & 10 lib. de moneta.

C

In, &c. Nottingham paid 18 l. now it pays 30 l. and 10 l. for liberty of Coynage, the Coyners or Monetarii paid this.

(2.) Ibidem, f. 290. b. in the little Book.

T. R. E. (2) Gepestwic Reddebat 15 lib. & 6 Sextarios Mellis, & 4 sol. ad Consuetudinem Mellis, & 8 sol. ad prebendarios, & Rogerus vicecomes dedit totum ad firmam pro 40 lib. ad festum Sancti Michaelis, postea non potuit haber censum & ex hoc Condonavit 60 sol. modo reddit 27 lib. & Monetarii reddebant per annum T. R. E. 4 lib. pro Moneta. modo debent reddere 20 lib. sed de quatuor annis non reddiderunt nisi 27 lib. & Comes semper habet tertiam partem.

D

In, &c. Ipswich paid 15 l. and six Sextaries of Honey, and four Shillings for the Custom of Honey, and eight Shillings to Prebendaries, and Roger the Sheriff let the whole Town to Farm for 40 l. at the Feast of St. Michael, but could not get the Rent, and therefore he abated 60 s. now it Rents for 37 l. and the Moneyers or Coyners paid for the liberty of Coynage by the year, in the time of King Edward 4 l. now they ought to pay 20 lib. but these four years they have paid only 27 l. and the Earl always had the third part.

E

(3.) Little Book, f. 117. a. * *Gersuma* the Saxon word signifies Reward, Riches, Treasure, or Money paid beforehand, but if *Gersuma* for *ingersuma*, (as it is sometimes written) then 'tis *ingressus summa*, a Fine or Income.

*T. R. E. (3.) Norwic. reddebat 20 lib. Regi, & Comiti 10 lib. & præter hoc 21 sol. ad Præbendarios & 6 Sextarios Mellis, & 1 ursum & 6 canes ad ursum & modo 70 lib. ad pensum Regis & C. sol. ad numerum, de * *Gersuma* Regina, & 1 Asturconem, & 20 lib. Blancas Comiti & 20 sol. *Gersuma* ad numerum.*

F

In, &c. Norwich paid 20 l. to the King, and to the Earl 10 l. and besides this 21 s. to Prebendaries, and six Sextaries of Honey, and one

one Bear, and six Bear-Dogs, now it pays 70 l. according to the Kings Standard, and 100 s. by Tale, the Queens Money, or a Fine or Income to the Queen, and one Pad or Palfrey, and 20 lib. of Silver to the Earl, and 20 s. by Tale for an Income or Reward.

A Besides their Customs, Payments, and Tolls, they were liable to Mulcts, and Forfeitures for Crimes, nay, many or most of the very Houses in many Burghs and Cities, and may be in some all were divided amongst the Normans, as in Northampton, Warwick, Southampton, Stadford, and others. In other Burghs the Burgeses paid Money to the Normans their Patrons, as perhaps they did to the Saxons (4.) Bochingheham. In hcc Burgo Episcopus Constantiensis habet tres Burgeses. Quos tenuit Wulward filius Eddere, hi reddunt sex solidos & sex denarios per annum & Regi reddunt undecim Denarios. Hugo Comes habet unum Burgensem qui fuit homo Burcardi de Senelai hic reddit 26 Denarios per annum & Regi Quinque denarios. Robertus de Olgi, habet unum Burgensem qui fuit homo Azor. f. Toti. hic reddit 16 denarios & Regi Quinque Denarios. Hugo de Bolebec habet quatuor Burgeses, qui fuerunt homines Alrici, hi reddunt 28 Denarios, & Regi 12 Denarios; And thus were all the 26 or 27 Burgeses that were in this Town at the time of the Survey distributed amongst the Normans, and so in many other Burghs, see Pevenfel, Arundel, &c. Gapeswic. (5.) In Burgo erant T. R. E. 538 Burgeses reddentes Consuetudinem Regis & habebant 40 acr. Terra. Modo vero sunt, 110 Burgeses qui consuetudinem Reddunt & 100 Pauperes Burgeses qui non possunt reddere ad Geltum Regis (that is the Kings Custom or Payment) nisi unum Denarium de suis Capitibus, & inter Totum simul habent 40 acr. Terra & 328 Mansiones vastatae sunt in Burgo quae T. R. E. Scottabant ad geltum Regis.

B

C

(4.) Domest. f. 143. col 1.

(5.) Ibidem, f. 290. a.

D These were the Liberties and Priviledges that other Cities and Burghs enjoyed under King William, what the condition of London was at the time of making this Survey cannot easily be known, for neither that City nor Winchester, nor Abington in Barkshire, nor some few others of less note are to be found there; what ever Trading Priviledges and security of their Goods they at first obtained, was from the kindness and intercession of their Bishop, William the Conquerors great Favourite, and if they kept them after his death, it was by their great submission and obedience to his Government, but as to their Customs and Payments, and their Tenures likewise, no Man can think but they bare a proportion to other Cities and Burghs.

E

F Thus much for his own three Instances; He comes next to the general (6.) direction of Charters and Writs in King William the First his time (as he says) from which he avers it plainly demonstrable, That William the pretended Conqueror, did not divide all the Lands of England amongst his Norman Followers.

(6.) Atg. Antinorm. p. 80. Fus Angl. p. 124.

The first Charter (7.) is directed by King William to Osmond Bishop of Salisbury, Robert of Ely, (probably Sheriff of Hertfordshire) and Peter of Valoings Sheriff of Essex, to instate Maurice Bishop of London in (8.) Stortford, now Bishop Stortford Castle and other Lands. This Maurice a Norman was Consecrated Bishop of

M m 2 London

(7.) Antinorm p. 80.

(8.) Dugd. Hist. of St. Pauls in Append. f. 196.

London 1087. in the last year of *William* the First; and whether this was the Charter of *William* the First, or *Rufus*, it may puzzle them to make it out. The second is a *Saxon* Charter of King *William*, but of which King *William* I have not enquired.

* *Antinorm.*

p. 81.

(9.) *Monast.*

vol. 1. f. 185.

n. 10.

(1.) *Godw. de*

presul. p. 341.

* *Antinorm.*

p. 81.

(2.) *Monast.*

vol. 1. f. 397.

The * third is a Charter of King *William*, but it must be of *William Rufus*, for (9.) *Robert* Bishop of *Lincoln*, which was *Robert Bloet* was a Witness to it, and he was not (1.) Consecrated Bishop of *Lincoln* until 1092. the sixth of *Rufus*: A

The fourth * is a Charter of King *Williams*, but it was of *William* (2.) *Rufus*, though the Author of *Jus Angl. &c.* boldly affirms it was the Charter of *William* the First, pag. 124. when as in the same Folio that he cites, (2.) the Column, and the very next numbers, he might have seen it was *Rufus* his Charter, as appears by these words. *Anno Domini 1088. fundata fuit Abbatia Sanctæ Mariae, per Dominum Stephanum primum Abbatem ejusdem, Anno Regni Regis Willielmi, filii Regis Willielmi primo.* And *Rufus* confirms the Gift of *Ralph Meschines* Earl of *Cumberland*, of the Maner of *Wederhall* to this Abby which was a Cell of *St. Mary's* in *York*; See *Monastic. Angl. f. 397. col. 2. n. 30, 40, 50, 60.* Are these just and fair Citations? to affirm these Charters to be Charters of *William* the Conqueror, when they were his Sons *Rufus*. B

(3.) *Antinorm.*

p. 81.

(4.) *Monast.*

vol. 1. f. 29.

col. 2. n. 20.

* *Antinorm.*

p. 82.

(5.) *Ibid. Mo-*

nast. n. 40, 60.

The fifth is a Charter of King (3.) *Williams*, but of *William Rufus* likewise, for *Robert* (4.) Bishop of *Lincoln* is a Witness to it, and was Consecrated as before.

The * sixth and seventh are about the same business of the Church of *Rocheſter*, with the fifth, and therefore probably by the same King, seeing they do immediately follow it in the same Column, and next numbers in the *Monasticon*, though 'tis not clear what time the Witnesses lived and died. D

* *Antinorm.*

p. 82.

Caerliel.

The * eighth as 'tis to be found in *Monast. vol. 2. f. 845. col. 1. n. 60.* runs thus. *Will. Rex Angl. G. vicecom. & Baronibus suis de Caerliel salutem. Volo & præcipio ut ita intendatis, de Christianitate ad Archidiaconum Dunelm. sicut intendebatis Tempore Willielmi Episcopi Dunelm. Teste E. dapifero.* This was to the Inhabitants of *Carlisle*, that they should submit or repair to the Court of the Archdeacon of *Duresm* as formerly in the time of *William* Bishop of *Duresm*, who laid one of the three first Stones of the Cathedral Church in *Duresm*, *Anno Domini 1093. Aug. 11.* and died *Anno Domini 1096. Decimo Rufi. Godw. de presul. Dunelm. p. 108, 109.* E

* *Monast. vol.*

2. f. 845.

The ninth is of King *William*, but of King *William Rufus*, for it is a * Restitution of *Ralph* Bishop of *Duresm* to several Lands, and he was not Consecrated until the Thirteenth of *Rufus*, the Bishoprick being void three years and four Months after the death of *William* aforeſaid, *Godw. de presul. p. 109.* F

(6.) *Antinorm.*

p. 82.

The three (6.) that follow are the Charters of *Henry* the First, and thus I have given some check to *Antinormanicum's* Confidence in affirming, that the Charters he cites were the Charters of *William* the

the First. But be they who they may, the Directions of them, *Baronibus & fidelibus suis Francis & Anglis*, which he so much insists upon, signifie nothing, they were but words of course and common Form, and exprest no more the Quality, Nation, or State and Condition of those Persons, than the words, *Omnibus Christi fidelibus, notum sit omnibus, noverint universi, sciant tam futuri, quam presentes*, or *sciat universitas vestra* did in old Charters, by which they were directed to the whole World; when such Charters with such Directions concerned only particular Persons, and the Contents of them were about particular Matters.

Yet if any one desires further satisfaction, let him see the Glossary in the words *Angli & Franci*, and I may hope he will be induced to believe, by what is said there, that if these Directions were of any Consideration, yet the *French* and *English* Barons and Fideles or Vassals there meant, were *English* and *French-Normans*, and not *English-Saxons* and *Normans*.

From the Directions of these Charters he proceeds to two (7.) Branches of King William the First his *Magna Charta*; viz. (8.) to Law or Chapter 55, and 63. these two Laws have been sufficiently spoken to before in this Answer, where it hath been made appear that neither of them were made with respect to the *English-Saxons*; Here I shall only remark, that he hath culled out what he thought made for his purpose; and left out two intermediate Laws, viz. the * 58, and 59. that would have told him for whose sake these Laws were made, and who the Freemen were that were to have the benefit of them, to wit, all the Freemen of the Kingdom that held Lands by the Gift of the Conqueror confirmed by Common Council, to furnish themselves, and be ready with Horse and Arms, to defend his Crown and Dignity against his Enemies, (which perhaps our Author will not think were *Normans*.) when he hath well considered the matter.

Next, as he (9.) says, he troubles his Reader with one more memorable Record as late as to the 26 Hen. 3. which shews, that from before the coming in of this *Norman* Conqueror, down to that time, the *English* had a property continued to them; and so then, this mighty Man of Victory did not govern them as an intire and absolute Conqueror, whatever our late Writers have been pleased to publish to the World.

The words of the Record are.

Rex (1.) *Baronibus, Mandamus vobis quod occasione arrentationis serjantiarum assessæ per Robertum Passelene non distringas Jacobum de Archangere, per 2 Marc. & dimid. de tenemento quod de nobis Tenet per serjantiam in Archangere, in Comitatu Southampton, &c. per chartam Beati Regis Edwardi Antecessoribus ipsius Jacobi super hoc Confectam. Sed ipsum Jacobum de predictis 2 Marcis & dimid. quietum faciatis in perpetuum Quia chartam Beati Edwardi Confirmavimus, & ipsam volumus inviolabiliter observari.*

(7.) *Antinorm.*
p. 84. Mr. Petyt's Preface,
p. 32, 3. *Fus*
Angl. p. 128,
129.

(8.) *Selden not.*
ad *Eadm. f.*
190. n. 40. f.
194. n. 20.
* *Ibid. f.* 191.
n. 12, 20, 30.

(9.) *Antinorm.*
p. 85, 86. *Fus*
Angl. p. 112,
113.

(1.) *Coman de*
Term. Mich.
as there cited,
36 Hen. 3.
Pro Jacobo
Archangere.

In *Engliſh* thus.

(2.) *Antinorm.*
p. 87.

The King (2.) to the Barons (of the Exchequer) We Command you that by the occasion of the Rent of Serjanties, assessed by *Robert Passeleve*, you shall distrain *Jacob* of *Archamger*, by two Marks and an half for the Estate or Tenement he holds of Us by Serjanty, in *Archamgere* in the County of *Southampton*, &c. by Charter of King *Edward* made to the Antecessors of this *Jacob* concerning it, and this *Jacob* of the aforesaid two Marks and an half, you shall quit for ever, because we have confirmed the Charter of the aforesaid *St. Edward*, and we will have it to be inviolably observed.

A

(3.) *Ibidem*,
p. 88.

The invalidity and insufficiency of this Record to prove what our Author would have it, viz. That the (3.) *Engliſh* were not put out of their Properties, which they held and enjoyed in the time of *Edward* the Confessor, but that they still enjoyed them as before, notwithstanding all the vain pretences to the contrary, shall be shewn by this more Authentick and Ancient Record.

B

(4.) *Domes-*
day-Book.

Hantescire, (4.) f. 49. b. col. 2.

Terra Cainorum Regis.

Edwinus Tenet Acangre, & dicit quia emit de Rege Willielmo, sed Scira nescit hoc. Alwi Tenuit de Rege Edwardo, & nunc Richardus tenet de Edwino, T. R. E. se defendebat pro una hida, & una virgata, Terra est Quatuor Carucarum, in Dominico sunt Duæ & octo villani & 5 Bordarii cum tribus carucis, & duo servi & duæ acra, prati, T. R. E. & post valuit 40 sol. modo 60 sol.

C

The Kings Servants Land.

D

Edwin holds *Acangre*, and says, because he bought it of King *William*, but the Shire knows not this. *Alwi* held it of King *Edward*, and now *Richard* holds it of *Edwin*. It defended it self, or was taxed and valued at one Hide, and one Virgate, the Land is four Carucates or Ploughlands, there are two in Demeasn, and eight Villans and five Bordars with three Ploughs, and two Servants, and two Acres of Meadow; In the time of King *Edward* and afterward it was worth 40 s. (by the year) now 3 l.

E

This *Acangre* must be that place which was afterward called *Archamgere*, or there was no such place in *Edward* the Confessors or the Conquerors time in this County. This was holden in *Serjanty* at the time of the Conquest, for *Serjanty* signifies no more than Service, and this Land was holden by one of the Kings Servants, as appears by the Title, and there can be no doubt but he performed his Service for which he held it. When the Condition of Lands was changed, and they began to be improved, and our ancient Kings let many of them out in Fee-farm, there was no need or Employment for many of these Servants, and then their Services began to be changed into Mony, and to be rated by the Kings Officers; This was the care here, and *James Archamgere* pleads a Charter of King *Edward* the Confessor

F

A Confessor in discharge of such Assesment, which was allowed. The Judges, as hath been before observed, were imposed upon by a false Descent in the *Prior* of *Coventry's* Case ; and 'tis very probable in this case they were imposed upon by a forged and false Charter of King *Edward*, for if they had had Recourse to *Domesday-Book*, they would have found that the Antecessors of *Archangere* could not be Kindred or Ancestors in Blood, but only in Possession, and that King *Edwards* Charter, if any such were, could make nothing for this Person ; for *Alwi* that held it of King *Edward* in his time, was outed, and *Edwin* had possession of it, and held it of King *William*, and *Richard* under him ; nor can it be true that *Archanger*, or any one that had the possession of it before him, was in possession of this place, as well in the Confessors as Conquerors time, and therefore it cannot be proved from this memorable Record, that the *English* still enjoyed their Properties in the time of King *William*, as they had done in the time of King *Edward*.

B At last our Author shuts up this Point with (5.) two or three Passages of *Oydericus Vitalis* which he had from *Pitabientis*, and which have been fully Considered in the beginning of this Answer, as likewise his Deductions from these Passages, and those words of *Pitabientis*, (6.) *Nulli tamen Gallo datum est, Quod Anglo cuiquam injuste fuerit ablatum.* And therefore I refer the Reader to what hath been said there.

(5.) *Antinorm.*
P. 88.

(6.) *Ibidem,*
P. 93. & *Fus*
Angl. P. 115.

The Fourth Question is,

Whether (7.) it be not a grand Error to affirm, that there were no *Englishmen* in the Common Council of the whole Kingdom ?

(7.) *Antinorm*
P. 95.

D The main (8.) pinch and stress of this Question our Author says, is, whether after *William* the Conqueror had settled himself as well as he could on the *English* Throne, he did admit any of the *English* to sit in the great Council of the Nation, and to Advise and Consult *de Arduis, & urgentibus negotiis Regni.*

(8.) *Ibidem,*
P. 96.

E By thus laying down the pinch and stress (as he calls them) of this Question, he hath not only truly stated it, but likewise all the other three, by reducing them to their true time, wherein we ought to make a Judgment of King *Williams* Actions, Government, and Behaviour in this Nation.

F But in this very (9.) Paragraph he says, that the grand Court of Parliament was in substance the same, that it was before the coming in of this Conqueror, and that there were *Englishmen* Members of it in the time of the Conqueror ; The first is easily granted him, if he means, the Great Council or Parliament consisted of the same Head and Members, that is, of the King, Bishops, Abbats, and the Baronage or Nobility. But for the other he is to recollect himself, where the pinch and stress of the Question lies, and then let him tell me whether he thinks after King *William* had fully Established himself in the *English* Throne, he called any of the *Saxons* to his Great Councils.

(9.) *Ibidem.*

Yet

(1.) Ibidem,
p. 97, 98, 99,
100.

(2.) Du Chesne
*Antiquit. des
villes, &c.* p.
938.

(3.) Berauld
in the local
Customs of
these Places.

(4.) Old Cu-
stom, c. 2. &
c. 30.

(5.) *Antinorm.*
p. 100.

(6.) {
(7.) { Ibid.
(8.) { p. 101.
(9.) {
(10.) {

Yet prove it he will, from the continuance of (1.) lesser Courts, as County Courts, Hundred Courts, and Court Barons, after the Conquest. It will not be denied but that County Courts and Hundred Courts did remain, that is, there were Courts holden in such Portions of the Nation as Counties were, for such Portions; and in such Divisions of Counties as Hundreds were, for such Divisions, that right might be done in them for the ease and conveniency of the People, (for the Nation was divided into such Shares and Portions long before the Conquest) but that the same Law, and the same Course and Method of Proceedings was used before and after the Conquest, remains yet to be made appear. In many things the *Norman* and our *Saxon* Laws agreed, as being derived to both from *North-Germany*; and though in *Normandy* there was no County or Hundreds, yet there were Bayliwicks which resembled our Counties, and Viscounts which resembled our Hundreds, though perhaps they were much larger. There was and is in *Normandy* seven (2.) principal Bailliages or Bayliwicks, viz. of *Roven*, *Caen*, *Caux*, *Consten- tin*, *Eureux*, *Gisors*, *Alencon*, and every one of these had their Bay- liff or chief Officer who was Judge in the Bayliwick Court, and hence it is that in our old Law Books and Records, and in some Law Proceedings, a County is called *Baliva*, and hence also the reason of the Form of the Return, *Non est inventus in Baliva mea*. As be- fore was noted, ~~Hundreds~~ there were none, but many Vicounties and Liberties, as the Vicounty of *Roven*, of *Caen*, of *Bayeux*, of *Fal- laise*, of *Gisors*, of *Vernon*, of *Caudebac*, and (3.) thirteen more, which had their Jurisdictions in and over many Villages, as to mean Justice, and Pleas of smaller matters than those of the Bailliage, that were holden from fifteen to fifteen days, and at this day ordinary Judges in Villages are called Vicounts in many places in *Nomandy*. Lastly, as to Court Barons, or Lords Courts in their several Maners, the *Saxon* Lords had a Jurisdiction of their Tenents and Residents in their Fees, but not the same Fiefal or Feodal Jurisdiction which the (4.) *Normans* brought with them, nor was there the same Law, Form, Usages, and Proceedings in *Saxon* Maners and Jurisdictions Feodal, as since the Conquest; for the Terms, Usages and Forms of Proceedings we yet retain in the Courts-Baron, we received from the *Normans*. Who will have further satisfaction in this point, let him peruse the parallel between the *English* and *Norman* Laws in the Preface to the *Norman* Story. But what if it be granted, that he did permit these small Courts of Justice to remain, and have their course in such matters as touched not his Government and Establish- ment, certainly he might be a Conqueror notwithstanding that.

From the small Courts, he comes to the (5.) Sovereign Court of Parliament it self, to shew what it was, and of whom it consisted in the *Saxon* times, and for this he thinks it (6.) needless to give any more than one Instance, which does (7.) impregnably assert, That the Commons of *England* were an Essential and Constituent part of the *Saxon* General Councils, and fully and clearly (8.) refute and baffle that Novel Erroneous Notion, that there are no Commons to be found in the *Saxon* Great Councils, nor any thing that tends towards the proof of the Commons of those times, to have had any share in making Laws in those Councils; and his (9.) Memorable Instance is the (10.) mighty Law of Tithes (as he calls it) which was made and ordained.

(2.) A

(2.) *A Rege, Baronibus, & Populo,*(2.) Ibidem,
Lamb. Ll. Edw.
Reg. c. 8. f.
139.

A These are indeed mighty words for a little Man, he thinks this Law was made in King *Edwards* days, and was Piping-hot when the Conqueror came in, but it will prove otherwise upon examination of it, and also doubtful whether there was ever such a Law or not, made by a *Saxon* Monarch or King. For after the (3.) Law hath enumerated, the maner of Tithing in very many things both great and small, requiring an exact Tenth to be paid for most of them ; it says, that he which detains the Tenth, if need be, may be forced to payment by the Justice of the Bishop and King, and then immediately follows these words. *Hæc enim prædicavit Beatus Augustinus, & Concessa sunt a Rege, Baronibus & Populo. Sed postea instinctu diaboli, Multi eam detinuerunt, & sacerdotes locupletes negligentes, non curabant inire laborem, ad perquirendas eas, eo quod sufficienter habebant sue necessaria vitæ.* These things St. *Augustin* Preached up, and they were granted by the King, Barons, and People, but afterwards by the instinct of the Devil, many detained them, and the rich Priests were negligent, not caring to be at the trouble to recover them, having sufficient for their own support.

(3.) *Lamb.*
Ibidem.

C Hence 'tis evident, that these Concessions of Tithes were made in the time of St. *Augustin* upon his Preaching, that is, of *Augustin* Arch-Bishop of *Canterbury*, sent hither from *Rome* in the Reign of *Ethelbert* King of *Kent*, for the words, & *Concessa sunt a Rege, Baronibus, & Populo*, can relate to no other than the words immediately preceeding, *Hæc enim prædicavit Beatus Augustinus.* And the words next following them do also prove the same ; *Sed postea instinctu Diaboli, Multi eam (Decimam, viz.) Detinuerunt, &c.* which was after they were granted by the King, Barons, and People, so that this was at most but the Confirmation of a Law made by King *Ethelbert*, and how, and by what words the Legislators were expressed, near 500 years after the Law made, or how they were rendred in *Latin* after the coming of the *Normans*, transiently and without design to give an account of them, cannot be of much value to prove who they were ; and that the Laws of King *Edward* were made, or at least Translated into *Norman Latin* after the Conquest, appears by the words, *Comites, Barones, Milites, Servientes, Servitium, Villanus, Catalla, Manutene*re ; all *Norman* words, and not known here until their coming hither. He that will assert any thing from a single uncouth Expression in one case, and upon one occasion only, brings but a slender proof for what he says. *Rex mandavit, says (4.) Florence of Worcester, ut Archiepiscopi, Episcopi, Albates, Comites, Barones, Vicecomites, cum suis Militibus, die Calendarum Augusti sibi occurrerent Searesberie. Quo cum venissent Milites eorum, sibi fidelitatem contra omnes homines Jurare Coegit.* *Simeon of Durham*, and *Hoveden* have the very same words : *Hen. of Huntington* somewhat strangely, explains this Meeting, and expresses it otherwise, (5.) *Willielmus Rex, (saith he) accipiens Hominum omnium Terrariorum Angliæ, Cujuscunque feudi essent, juramentum etiam fidelitatis recipere non distulit.* Here the *Milites*, such as held Lands in Military Services, of the Arch-Bishops, Bishops, Earls, Barons, &c. are called *Terrarii*. Would any Man therefore think these *Terrarii*

(4.) *Fol. 641.*(5.) *Fol. 212.*
a. n. 20.

(6.) *Cl. 487.*
n. 60.

were ordinary Landholders, and Terr-Tenents ; surely not, they did no Homage. *Ralph de Diceto* expresseth it yet more uncouthly, (6.) *Rex Willielmus Convocatis tam Clero, quam Baronibus, apud Searesberie, omnes sibi fidelitatem Contra omnes homines jurare Coacti sunt ;* Doth any Man think that the Arch-Bishops, Bishops, and Abbats (here meant by the Clergy) were not Barons, because *Ralph de Diceto* says upon this occasion only, that he called together as well the Clergy as the Barons?

A

(7.) *Ll. 17.*
Edw. Lamb.
fol. 142.

So will any Man think, because 'tis said in one of King (7.) *Edwards* Laws, and perhaps no where else, concerning the Kings Coronation, *Quod debet in propria persona coram Regno, & Sacerdotio, & Clero jurare antequam ab Archiepiscopis & Episcopis Regni coronetur.* That the Priests were not Clergymen, nor the Clergymen Priests ; and that the Arch-Bishops and Bishops were neither ? Many other uncouth Expressions do often occur in the old Monks, which are to be interpreted according to the common usage and practice of the times in which they are delivered ; and therefore seeing before the time of the Conquest, and for two or near three Centuries of years after-

B

(8.) See An-
swer to Mr.
Petyt, f.

ward, the Commons (as at this day understood) were not (8.) called, nor did come to Great Councils or Parliaments. By **Barons** here must be meant the great Barons, and by **Populus**, the *Communitas Angliæ*, or which was then all one, the *Communitas Baronum*, the lesser Barons or Tenents *in Capite* ; and this sense of the words is further confirmed by the famous (9.) Exemplification or Declaration of the Sentence of Excommunication pronounced against the Infringers of *Magna Charta*, where towards the latter end are these words ; *Dominus Rex & predicti Magnates omnes (R. Comes Norff. & Marecallus Angliæ, H. Comes Hereford & Essex. J. Comes de Warwic, Petrus de Sabaudia there named ; ceterique Magnates Angliæ) & communitas populi protestantur publice in presentia venerabilium patrum B. Dei Gratia Cantuarien. Archiepiscopi totius Angl. Primat. nec non & Episcoporum omnium in eodem colloquio existentium.* In this Record (1.) the *Communitas Populi*, as distinguished from the *Magnates*, the great Barons there named, and the rest of the great Barons of *England*, were the Community of the Laity, or Community of the less Barons, or Tenents *in Capite*, as hath been formerly proved and asserted against Mr. *Petyt*.

C

D

(1.) Answer
to Mr. *Petyt*.

(2.) *Antinorm.*
p. 102.

After this mighty Instance, (2.) he says, Laws were here settled, not *Ex plenitudine Regiæ potestatis*, nor by the *Norman* Barons co-operating with that power, but by the joint Advice and unanimous Consent of the grand Council of the Lords and Wise Men of the Kingdom of *England*. (3.) To prove which, he produceth the Testimony of many ancient Writers, whom no Man, he says, of Historical Understanding, can modestly impeach of Partiality, Faction, or Interest in the Case in Question.

E

(3.) *Ibidem.*

(4.) *Ibidem.*

The first (4.) Testimony is out of the Chronicle of *Litchfield*, which he cites out of *Lambard, f. 158.* the words in that Book are these, *Anno Gulielmus Regni sui quarto, apud Londonias Consilio Baronum suorum, fecit summoniri per universos Angliæ Comitatus, omnes Nobiles, sapientes, & suâ Lege eruditos, ut eorum leges & Consuetudines audiret, & licet idem Rex Willielmus leges Northfolkiæ & Suffolkiæ, Grant-*
brigia

F

brigia & Deira (ubi quondam maxima pars Danorum & Norvegensium inhabitabant) prius magis approbaverat, & eas per totum Regnum observari praeceperat, pro eo quod omnes antecessores ejus & fere omnes Barones Normanniae, Norwegenses extitissent, & quod de Norvegia olim venissent. Sed postea ad preces Communitatis Anglorum Rex acquiebit, qui deprecati sunt quatenus permetteret, sibi leges proprias & consuetudines antiquas habere in quibus vixerant patres eorum, & ipsi in eis nati, & nutriti sunt, scilicet leges Sancti Regis Edwardi, & ex illo Die magna auctoritate veneratae, & per universum Regnum corroboratae, & conservatae sunt, praeter ceteris Regni legibus leges Regis Edwardi.

From this History he asserts, First, That this was a Parliament; Secondly, That the *Barones sui* were *English* not *Normans*, and that in this great Council were all the *English Nobiles & Sapientes*, Nobility and Wisemen, and that the Commons were here also, because King *William* granted these Laws *ad preces (5.) Communitatis Anglorum*. Concerning the improbability and partiality of this History I shall speak in another place, more than is said before in handling his second Question. But whether this Story be true or not, it shall be granted to be so; but then our Author must remember what he said before, That the stress of the Question was, whether when *William* had settled himself as well as he could upon the *English* Throne, he admitted any *English* into his great Councils to Advise and Consult about the difficult and urgent Business of the Kingdom, and then he may Answer this Testimony himself, especially if it be considered, that it cannot be made appear, that King *William* kept all the Promises he made at all times.

This Grant was made, and the great Councils holden in the Fourth year of his Reign, but then he had not settled himself so well as he could, then he had not made an intire Conquest of the Nation; that was not done until after the great appearance of the *Natural English* in Arms, and the great meeting which *Frederic* Abbat of *St. Albans* with others headed at *Berkhamstead*, which was not until above two years at least, if not five afterwards. For this Abbat after the breaking up of that meeting, and *William's* severe usage of the *English* immediately upon it, (6.) went into the Isle of *Ely*; (as was said before) and there soon after died. But in the Sixth (7.) year of King *William*, *Anno Dom. 1072.* he was (8.) at Court at *Windsor* in the Feast of *Pentecost*, and there Signed the Agreement between *Lanfranc* Arch-Bishop of *Canterbury*, and *Thomas* Arch-Bishop of *York* about the Primacy; Nay, he was in the *London* Council holden in the Ninth of King *William*, *Anno Dom. 1075.* subscribed it, *Spelm. Councils 2. vol. f. 9.* After the King (9.) heard of *Frederic's* death in the Isle of *Ely*, he took the Abby of *St. Albans* into his own hands, and so kept it, until Arch-Bishop *Lanfranc* prevailed with him to make his Kinsman *Paul*, a *Norman* Monk, Abbat thereof, which was in the year of our Lord 1077. on the Twenty eighth of *June*, in the Eleventh year of the Conqueror, of whom *Mat. Paris* (1.) says, *Hic primus Abbas hujus Ecclesiae fuit, postquam Anglia Normannis fuit penitus subjugata.* This was the first Abbat of this Church after *England* was entirely subdued by the *Normans*; so that this Testimony he brings from *Litchfield* Chronicle was before

(5.) Ibidem.
P. 103. P. 111.
Fus Angl. p.
148.

(6.) M. Paris,
vit. Abb. f. 49
lin. 3. and n.
10.
(.) Malmsb.
f. 65. b. n. 30.
(8.) Ibid. f. 66.
a. n. 10, 20.

(9.) Mat. Par.
in vit. Abb. f.
49. n. 20, 30.

(1.) Ibidem.

he had settled himself as well as he could or intended, and therefore proves nothing, nor is it any ways to his purpose.

(2.) *Antinorm.*
107, 108.

His second Testimony is (2.) out of *Gervase of Canterbury*, Col. 1653. *lin. 5.* the words these, about the Election of Arch-Bishop *Lanfranc*; *Eligentibus eum senioribus ejusdem Ecclesiæ, cum Episcopis ac Principibus, Clero & Populo Angliæ in Curia Regis in Assumptione Sanctæ Mariæ.* The *Episcopi & Principes*, Bishops and Princes, the *Clerus & Populus*, the Clergy and People, or Laity, were in this place the same Persons, and only expressive one of another; and here is no mention either of *French* or *English*, so that this can be brought only to prove that there were great Councils or Parliaments in the time of the Conqueror, which no body denies; and if this were really a great Council, he gains nothing by it, for the meeting was about the Fourth of the Conqueror, some years before he had made an absolute Conquest, and upon that fixed himself in the Throne.

A

B

(3.) *Ibidem*,
p. 108.

What he hath out of the short Account of King *William*, at the end of *Taylor's* (3.) *Gavelkind*, concerning the promotion of *Lanfranc*, is of the same signification, though the words vary, and the Expressions are not the same; nor doth it prove more than the other, that any *English* were in this Council. The words are, (4.) *Rex mittens propter illum* (that is *Lanfranc*) *in Normanniam fecit eum venire in Angliam, eique consensu & auxilio omnium Baronum suorum, omniumque Episcoporum & Abbatum, totiusque populi Angliæ commisit ei Dorobernensem Ecclesiam.* From this confused Report of *Lanfranc's* being made Arch-Bishop, there can nothing be collected, but that his Barons, that is his Temporal Barons, and the Bishops and Abbats, applauded and liked the Kings choice, as did also the other Laicks; for 'tis not to be supposed, that all the People in *England*, which our Author would have comprehended under the words, *Totius Populi*, or the hundredth part of them ever knew of, or understood *Lanfranc's* being made Arch-Bishop; and a Man would wonder, if free choice, then signified as it doth now, how the *Saxon-English* Barons, Bishops, or the whole People, should choose a Stranger, a Person they had not known, a Monk first, then Prior of the Monastery of *Bec* in *Normandy*, afterwards by the Conqueror made an Abbat of the Monastery he had founded in *Caen*, and *Postpone* all their own deserving Countrymen, it will be somewhat difficult to conceive.

C

D

(5.) *Antinorm.*
p. 108.

The third Testimony is from a (5.) General Council or Parliament (as he calls it) held at *Westminster* in the Fourteenth year of King *William*, in the Charter of Liberties he granted to that Monastery; in his Margin he cites a *Cartulary* out of *Cottons Library*, and *Dugdales Origines Jurisdiciales*, which cites that Manuscript.

E

(6.) *Council*,
Tom. 2. fol. 14.

But Sir *Henry* (6.) *Spelman* hath it more fully in the year 1077. and the Eleventh of the Conqueror, whose words I will recite, which are somewhat more than our Author mentions, and for what he transcribes are the very same.

F

In Chartâ Willielmi primi A. 1077. Monasterio Westmonasteriensi post Nomina Testium, Scilicet, Archiepiscoporum, Episcoporum, Comitum, & aliorum Seniorum, hæc pro autoritate Regis ad causas Ecclesi-

Ecclesiasticas tractandas inseritur. Ego Robertus de Oleyo confirmavi, Ego Hamo Dapifer signavi; multis præterea illustrium virorum personis, & regni principibus diversi ordinis ommissis; qui similiter suæ confirmationi, piissimo affectu testes & fautores fuerunt. Hi etiam illo tempore à Regia potestate è diversis provinciis, & urbibus, ad universalem synodum, pro causis cujuslibet Sanctæ Ecclesiæ audiendis, & tractandis ad præscriptum celeberrimum cænobium quod Westmonasteriense dicitur Convocati.

A Upon part of this Fragment out of the Cartulary of the Abby of Westminster, he makes this (7.) Gloss. That not only the great Clergy and the Temporal Nobility, but the *Principes diversi ordinis à Regia potestate Diversis provinciis & urbibus ad universalem Synodum convocati, &c. viz.* The chief and principal Men of several Ranks and Degrees in Condition, were summoned by virtue of the Kings Writ, out of their several respective Counties, Cities, and (8.) Burroughs, to this General Synod or Parliament.

(7.) Antinorm. p. 111.

(8.) Ibidem. p. 112.

B But First, Notwithstanding his Descant, the *Principes diversi ordinis* in this place, were only Bishops, Abbats, the great and dignified Clergy, and the Temporal Nobility, Earls, and Barons, the *Proceres* and *Magnates*, or in general, the Clergy and Laity that usually came to such Assemblies. To this purpose (9.) Florence of Worcester, *Rex fuit apud Westmonasterium, & cum eo omnes Principes Regni Ecclesiastici, & secularis ordinis.* The King was at Westminster, and all the Princes and chief Men of the Ecclesiastick and Secular Order. Eadmer (1.) of this very great

(9.) Fol. 651. lin. 22. 3 Hen. 1

C Council, says, *Primates Regni utriusque ordinis huic conventui affuerunt.* To the same purpose 'tis said of another great Council, (2.) *Convenerunt ad Regalem Curiam apud Wentaniam Civitatem in Paschali solennitate, Episcopi, Abbates, ceteri ex sacro & Laicali ordine.* There met at Winchester in the Kings Court, in the Solemnity of Easter, the Bishops, Abbats, and the rest of the Sacred and Lay Order. And Malmsbury giving an account of the Determination of the Controversie between the two Archbishops at Windsor, says thus, (3.) *Ubi & finem accepit in presentia Regis & Episcoporum, & Abbatum Diversorum ordinum; qui congregati erant apud Curiam Regiam.* Hence it is clear what the *Principes diversi ordinis*, or *utriusque ordinis* were; to wit, the chief of the Clergy and Laity, *Magnates & Proceres*, the Bishops, Abbats, Earls, Barons, and Temporal Nobility.

(1.) F. 67. B. 20. A. D. 1102. 3 Hen. 1.

(2.) Lib. Ms. in Bib. Cot. sub. Effig. Cleopat. E. 1. A. D. 1072.

(3.) F. 66. a. n. 10.

E Nor, Secondly, Is our Author less ignorant and mistaken in the meaning of Cities and Provinces in this place, and the Persons that came from them. In the Ninth of the Conqueror, Anno Dom. 1075. there was a great Council held at London by Archbishop Lanfranc, (4.) in which according to the Decrees of Pope Damasus and Leo, and of the Councils of Sardis, and Laodicea, That Bishops Seats should be removed from Villages to Cities, by Royal Munificence, and Synodal Authority it was granted, That Herman Bishop of Sherborn in Dorsetshire, should remove to Salisbury, Stigand Bishop of Selesy in Suffex to Chichester, and Peter Bishop of Lichfield to West-Chester; and then it immediately follows, *De quibusdam qui in Villis & vicis adhuc degebant, Dilatum est usque ad Regis audientiam, qui in transmarinis partibus tunc temporis bella gerebat.* Concerning some others which yet lived in Villages, the matter was put off to the Kings hearing of it, who was then busie in War beyond Sea. Now Sir Henry Spelman placeth this Council in the Eleventh of King William, which our Author cites as in the 14th of his Reign, two years, or if our Author be in the right, it was five years after that at London, wherein Provision was made for translating Bishops

(4.) Spelm. Count. vol. 2. f. 7.

shops Seats from Villages to Cities, which provision in all things, and as to all Persons was not then settled, for the reason above given; and therefore was this universal Synod called, for hearing and handling the Causes of every Holy, or as 'tis in our Author, Christian Church. This every Holy Church was in *England* (for an *English* Synod had nothing to do with Churches beyond Sea) and under those words were contained many Churches, which in reason and probability could not be meant of the small Parish Churches all the Nation over, and therefore must be understood of Cathedrals, or Churches where Bishops Seats then were, or where they had been or were to be removed.

From whence we may very rationally conclude, and affirm, That this Synod was called for the perfecting and Establishing such things as were left undone in the Synod of *London*, That the Persons summoned by the King to this Synod from Provinces and Cities, or from Counties, *Dioceses*, or Cities, were such as were concerned, or were able to advise and inform the King in this matter, and of the conveniency of the Places whither the Removals were to be made, as Deans, Arch-Deacons, and other Dignified Persons and Church-Officers, as well of the Laity as Clergy, but more particularly such whose Interest was to be secured in this Transplantation. And also the *Principes Regni*, the great Nobility, who were in those times always present in such Synods and Assemblies; and that Province and *Diocese* were sometimes the same thing, take this pregnant proof. *Henry the Second*, in the Fifteenth of his Reign, *Anno Domini 1169*. set forth certain (5.) Articles in contradiction to the Popes pretended Authority, and for reducing the Clergy to the Obedience of his Laws, amongst which the third (6.) Article was to the purpose following, *Omnes Clerici qui habent Redditus in Anglia, & sunt extra Angliam, summoneantur per omnes Comitatus, & Provincias, Quod in festum Sancti Hillarii redeant in Angliam, & si non venerint ad terminum illum, omnes Redditus eorum Capiantur in manus Domini Regis & ipsi sint sine spe revertendi; & Vicecomites faciant hoc sciri, Archiepiscopis, & Episcopis de Provinciis suis*: Let all Clerks that have Rents in *England*, and are out of *England*, be summoned in the several Counties and Provinces, That they return into *England* by the Feast of *St. Hillary*, and if they do not, let their Rents be taken into the Kings hands, and suffer them not to return; and the Sheriffs shall give notice of this to the Archbishops, and Bishops, of their respective Provinces. *Dioceses* in this place, as well as Counties, were meant and understood by *Provinces*.

(5.) *Chron. Gervaf. Col. 1408. n. 50, 60.*
(6.) *Ibidem. Col. 1409. n. 10.*

A. D. 1138.

But by what follows it's more than clear; *Decima tertia die Decembris celebrata est Synodus apud Westmonasterium, cui præsuit Albericus Hostiensis Episcopus Domini Papæ Legatus, cum Episcopis Diversarum Provinciarum numero xvii Abbatibus fere xxx. &c. Ric. Hagulstadenfis col. 327. lin. 1. Chron. Gervaf. col. 1347. n. 10, 20. Contin. of Flor. of Worcester, f. 671. lin. 12. on the 13th of December, there was a Synod holden at Westminster, in which Alberic Bishop of Ostia, and the Pope's Legate presided, with the Bishops of divers Provinces, in number Seventeen, and almost Thirty Abbats. There can be no Cavil raised here, against the use of the word Provinces for Dioceses or Diocesses.*

(7.) *Antinorm. p. 111.*

Immediately before this Gloss upon this Fragment of the Charter aforesaid, he had (7.) asserted there was an Essential part of the great Councils or Parliaments, in the time of *William the First*, which was the *Comunitas Anglorum*, the Community of *English-men*, which words he had out of the Fragment of *Litchfield's Chronicle* before cited, in his first Testimony; where 'tis said, That King *William* granted to the *English* their ancient Laws and Customs, *ad preces Comunicatis Anglorum*, upon the Petition and earnest Request of the Community of *English*; and what these were, he might have been easily informed himself, if he had looked in the Laws ascribed

ascribed to *Edward* the Confessor, where 'tis said; in the very same case, and upon the very same occasion, That, *Habito Consilio, precatui Baronum tandem acquievit*, at length King *William* taking Advice, or calling a Council, yielded to the Petition of his Barons; Or into *Hoveden*, where upon the very same matter and occasion, he hath the very same words with those in the Confessors Laws; so that from hence it is manifest, That *Communitas Anglorum*, and *Communitas Baronum* were then, and in these places, words of the same signification, and the Persons intended by them, the same; that is, the Community of Barons, and not of the ordinary People.

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 T O T H E
A P P E N D I X .

(1.) *Pag. 113.* **I** Have thus dispatcht and fully Answered all what hath been brought in this Book, and some other Writings of other Men, to make good their Fancy, That *William* the First was no Conqueror, and shewn the idleness and vanity of it; from whence, passing by Mr. *Whitlock's* impertinent Speech upon the same Subject, brought by the Author as a (1.) Corroborating Testimony to explain and inforce what he hath said, as containing nothing material, besides the common Heads and Topicks others have used before him, I shall proceed to examine the *Appendix*.

(2.) *Pag. 157.* Wherein he brings a piece of a (2.) Record out of the Roll of Inquisitions of Demeasns in *Dorsetshire*, in the Fourth year of *Henry* the Third, the words these; *Abbas de Middleton tenet in Capite de Domino Rege Manerium de Middleton, &c. ex Feoffamento Regis Æthelstani, & nullum servitium fecit nisi orationes.* The Abbat of *Middleton* holds of the King *in Capite*, the Maner of *Middleton*, &c. of the Feofment or Gift of King *Æthelstan*, and it hath performed no Service but Prayers. I did not examine this Record, nor shall I take further notice of it, until he shews it makes any way to his purpose, or doth in the least measure prove *William* no Conqueror.

(3.) *Ibidem.* Next (3.) he cites a Charter by *Inspeximus*, to the Dean and Chapter of *St. Martins Le Grand* in *London*, by which King *William* confirmed the Possession of all Lands to that Church which it held in *Edward* the Confessors time; but this can no way serve him, for First, Church Lands were either not taken away, or if they were, *William* the Conqueror caused them to be restored to their several Churches, by Advice, and at the Request of *Lanfranc* Archbishop of *Canterbury*, as hath been shewn before; And Secondly, The Charter of King *William* is Witnessed by the Earls *Eáwin*, *Morcar*, and *Waltheof*, and bears date in the day of *Pentecost* 1068. in the (4.) Second year of his Reign, before he had totally vanquished the *Engliss*, and Established himself in his new Acquests.

(4.) *Ibidem*,
 p. 158.

(5.) *Ibidem*,
 p. 161.

His last and terrible Argument in this *Appendix* is a *Dilemma* grounded upon a (5.) Law made in the Fifteenth of *Richard* the Second, and drawn from dreadful Consequences to ensue, supposing King *William* obtained this Nation by Conquest; His words are; If this fond Notion of *Williams* absolute Conquest be true; then

then either the Arch Bishops, Bishops, Abbats, Priors, Earls, Barons, and Commons in Parliament 15 *Rich. 2.* knew it, or they did not. That they were ignorant of it, is not easily to be presumed, because they lived within ten of three hundred years ago, and no doubt but there were learned Men among them, that knew the ancient Customs of the Nation: and if they did, then were they guilty of the greatest madness and folly that ever was, when the Commons prayed that King, *En plein Parlement que nostre Seigneur le Roy soit & estoise aussi franke en sa Regalie, liberte, & dignite Royale en son temps come ascuns de cest noble progenitors Roys d'Engl. furent en leur temps, nient contrestuant ascun estatut ou ordinance fait devant cest heures a contraire & mesment * en derogation de la libertee & franchisee de la corone, quil soit adnulle & de nul force; & puis tous le Prelats & Seigneurs Temporels prierent in mesme le mantere; & sur ce nostre Seigneur le dit Roy mercia les dits Seigneurs & communes de la grant Tendresse & affection quils avoient a la Salvation de son Honneur & de son Estate & a cause que leur dit prieres & requests lui semblerent honestes & resonables ils Sagrea & assenta pleinement a ycelles.*

* The most material Clause that makes out the intention of this Law, is here left out.

Now if (6.) any Man of but an ordinary understanding think that the Parliament intended by this Act to out themselves of all their ancient and legal Rights, and totally to give up their Estates and Fortunes to the Kings absolute disposition; Is it possible almost to be supposed, that they designed to confound and overthrow the whole Polity and Government of the Kingdom, and reduce all to the Arbitrary Will and Power of a new Conqueror, without a Conquest? What Man is there (that is not become servile to common opinion, and implicit suppositions) of so inventive a faculty, as to conjecture such grand absurdities? And yet these and many more are the direct Consequences of those that endeavour to maintain and justify these pernicious Principles.

(6.) *Append. p. 161.*

For (7.) the Petition and Law is, That *Richard* the Second should be as free in his Regality, Liberty and Dignity Royal, as any of his noble Progenitors Kings of *England*; Then it naturally follows, that he was to be as free and absolute as *William* the Conqueror; and then what is the Conclusion and Result; but that the *English* were neither to have Estates nor Fortunes left them; and therefore it could be no great matter to them by what Law, Right, or Property Men held their Estates? And so farewell to Parliaments.

(7.) *Ibidem, p. 162.*

To this Argument from horrible Consequences, I Answer, First, in general, That where cogent Arguments are wanting, they are commonly supplied by words and pretences of very strange and dismal Consequences, if the Opinions of such as urge them be impugned, and shewn to have no foundation. But to suppose or urge an ill and strange Consequence may ensue upon matter of Fact done many hundred years since, and thence to conclude it was not done, or not so, is a strange and frivolous way of arguing and disproving it.

Secondly, I Answer, That our little Author according to his usual practise, in this and some other of his Writings, hath in quoting of this Law, omitted the most material Clause that would have discovered the design and meaning of it. The whole Law is thus.

(8.) Rot. Parl.
15 Ric 2. n. 13.

What is contained between these two marks [] is omitted in his Transcript of this Law.

En cest (8.) Parlement le second Jour de Decembre les communes prièrent overtement en plein Parlement que nostre Seigneur le Roy soit & estoise aussi franc en la Regalie liberte & Dignité Royal en son temps come aucuns de les nobles Progeniteurs jadis Roys Dengleterre, furent en leur temps, nient contrestant aucun Estatut ou ordonnance fait devant ces heures a contraire, & mesment, [en temps le Roy Edward second qi gist a Gloucestre, & que si aucun Estatut feust fait en temps le dit Roy Edward] En Derogation de la Libertee & Franchise de la corone quil soit annulle & de null force. And so to the end of this Law as before.

A

In English thus. In this Parliament the second day of December, the Commons pray openly in full Parliament, That our Lord the King may be, and continue as free in his Regality, Liberty, and Dignity Royal in his time, as any of his noble Progenitors heretofore Kings of England were in their time, notwithstanding any Statute or Ordinance made before to the contrary, and especially in the time of King Edward the Second, who was buried at Gloucester; and if any Statute was made in the time of the said King Edward in derogation of the Liberty and Franchise of the Crown, that it be void and of no force. And afterwards all the Prelats and Lords Temporal prayed in the same manner; and thereupon our said Lord the King thanked the said Lords and Commons, for the great tenderneſs and affection they had for the safety of his Honour and his Estate, and because their Requests and Prayers seemed to him Honest and Reasonable, he fully agreed and assented to them.

B

C

The Reason of making that Law.

This Law was made for the preservation of the Dignity and Rights of the Crown, and for preventing incroachments and invasions upon them; and was especially founded upon some disloyal Practices and unjust Usurpations, which had been made upon the Liberty and Freedom of the Crown in the time of Edward the Second, (which our Author hath concealed) and to secure the Crown from the like for the future was the chief intendment of it.

D

A brief Account of some practices against King Ed. 2.

Edward the Second having used too great indulgence towards Pieres Gaveston, and other Favourites, as many Bishops and Barons then thought, who under pretence of the Honour of God, and Holy Church, the Honour of the King and Realm, made Confederations to remove Evil Counsellors, Reform the Court, and to force the King to let them name all Judges, the Chancellor, Treasurer, and other great Officers in Court, Gascoign, Ireland, and Scotland. See (9.) Preamble to the Ordinances made by an extorted Commission to certain Ordainers, viz. seven Bishops, eight Earls, and six Barons, dated March 16. 30 Ed. 2. but not executed until the Fifth of his Reign. Thomas Duke of Lancaster Cousin German to the King, one of these Commissioners and Ordainers, was always the Head of these Confederacies, (1.) who pretended great affection to the King, to the common profit of the Realm, and great care to see the Ordinances (in Number 41) maintained in all points, and many things amended in the Kings Household, Court, and Realm.

E

(9.) Rot. Parl.
5 Ed. 2.

(1.) Memoranda Parliamenti apud Lincoln.
9 Ed. 2.

These Ordinances were revoked, and the Confederations, and Tumultuous Barons, and their Actions condemned, as contrary to the

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the Seigniory Royal, and State of the Crown, &c. in a Parliament (2.) holden at *York*, 15 *Eam.* 2. and notwithstanding this very year, the Earl of *Lancaster* was taken in open (3) Rebellion, Tried by his Peers, and adjudged to be Hanged, Drawn, and Quartered, as also some others of his Confederacy; The Queen by her lewd practices with *Roger Mortimer*, and the Bishop of *Hereford*, by the assistance of many popular Bishops and Barons, first deposed, and then caused him to be Murthered.

(2.) Great Stat. Roll from *Hen.* 3. to 21 *Ed.* 3. M. 31.
(3.) *Walsing.* f. 116. n. 20, 30, 40.

Somewhat like these, and upon the same pretences and foundation, were the practices in the time of *Richard* the Second, in the Tenth of his Reign, (4.) or somewhat before; he was urged by the **Barons** and petitioned by the **Commons**, to appoint by Commission continual Counsellors to assist him in the good Government of the Realm, the good and due execution of the Laws, and in relief of his own Estate and the Estate of his People.

(4.) *Rot. Parl.* 10 *Rich.* 2. n. 18. n. 20. Continual Counsellors appointed to King *Rich.* 2. by Commission.

Some of the Heads of this Commission are to be found in the (5.) Parliament Roll of the next year, by which it appears, that twelve loyal and sage Lords were to be the Kings Council for one whole year, and to have full and sufficient power to make Ordinances for the Government of the King and the Realm, and whatsoever appertained to the King on this side, as well as beyond the Sea, and to repeal, repair, and redress whatsoever was ill done contrary to the State, Honour, and Profit of the King, or of the Realm, and to do divers other things necessary for the profit of the King and Realm; and no Person to give the King Counsel, or move him any manner of ways contrary to the said Ordinance, and Statute, or Commission. If he did, the first time he was to lose all his Goods and Chattels, and the second, Life and Member.

(5.) *Rot. Parl.* 11 *Rich.* 2. Part 2. Article 17.

The Heads of that Commission.

Before the (6.) end of this Parliament in the Tenth year of his Reign, in which this Ordinance or Commission was made, the King made protestation with his own Mouth, That for any thing done in the said Parliament, he would not that prejudice should come to himself, nor to his Crown, nor to his Prerogative, and that the Liberties of his Crown should be safe, and kept.

(6.) *Rot. Parl.* 10 *Rich.* 2. n. 32.

In the Eleventh year the King kept his Christmases in the Tower of *London*, the Lords (7.) appear in the Fields, Suburbs, and before the Tower with 40000 Men in Arms; they urge the King to come, and Treat with them at *Westminster*, where after a little Discourse, the Lords told the King, that for his Honour and profit of the Kingdom, Traitors, Whisperers, Flatterers, Evil Doers, Detractors, and Unprofitable Persons ought to be banished from his Court and Company, and others substituted in their places, who knew how to do it, and would more honourably and faithfully serve him; which the King having with much sorrow granted, they drave away and expelled from the Court (8.) fourteen Bishops, Lords, and Knights, and three Ladies as unprofitable Persons; and caused to be Imprisoned and Arrested eight Knights, and four Clerks, whereof the Dean of the Kings Chappel was one.

(7.) *Walsingham*, f. 332. n. 50. and 333. lin. 2. n. 30, 40, 50.

The Lords Rebell.

(8.) *Ibidem*, n. 50. and f. 334. n. 10.

(9.) *Ibidem.*
(1.) *Rot. Parl.*
11 *Rich. 2.*
n. 8.

The Lords
Appellants.

Their Pre-
sences.

In the Morrow after the Purification, there was a Parliament holden at *Westminster*, to which the (9.) Lords came with their Army, and in which (1.) five Lords Appellants, the Duke of *Gloucester* the Kings Uncle, and Constable of *England*, *Henry* Earl of *Derby* eldest Son to *John* Duke of *Lancaster* then in *Spain*, and afterwards King *Henry* the Fourth, *Richard* Earl of *Arundel*, *Thomas* Earl of *Warwick*, and *Thomas* Earl *Marshall*, made open protestation, That what they did touching their Appeal and Suit in that Parliament, and all the Men and People being in their Company, (or of their Retinue or Assembly) and with them in all that Affair, was done principally to the Honour of God, and in Aid and Salvation of the Estate of the Lord the King, and of all his Realm, and for the safety of their Lives.

A

(2.) *Walsingh.*
f. 331. n. 20.

(3.) *Rot. Parl.*
15 *Rich. 2.*
Part. 2. Ar-
ticle 25.

Several Per-
sons accused
as Traytors
by the Lords
Appellants in
Parliament.

(4.) *Ibidem.*
(5.) Which
was holden
Octob. 1.
10 Ric 2.
The Articles
exhibited a-
gainst them.

(6.) *Ibidem.*

This (2.) Parliament was called on purpose for the Trials of several Persons accused by the Lords, as Traytors and Enemies to the King and Realm, amongst whom were (3.) *Robert Tresilian*, *Robert Belknap*, *John Cary*, *John Holt*, *R. Fulthorp*, and *William Burgh*, the Kings Justices, and *John de Loketon* Serjant at Law, impeached for Answering several Questions and Demands made unto them by the King, amongst which these were the chief relating to this present matter ;

B

First, It was (4.) demanded, Whether the new Statute, Ordinance, and Commission made in the (5.) last Parliament at *Westminster*, did derogate from the Kings Royalty and Prerogative? They unanimously answer, it did, especially for that they were contrary to the Kings Will.

C

Secondly, It was (6.) demanded, How they were to be punished, who procured those things aforesaid to be done? They unanimously answer, with death, unless the King would shew them favour.

D

(7.) *Ibidem.*

Thirdly, Also (7.) it was demanded, How they were to be punished, that excited the King to assent to that Statute, Ordinance, and Commission? They unanimously answer, as to the last Question.

(8.) *Ibidem.*

Fourthly, They were (8.) demanded, How they were to be punished, that streightned the King, or forced him to consent to the making of them? They unanimously answer, as Traytors. Also, How they were to be punished, that hindred the King from exercising those things which belonged to his Regality, and Prerogative? They unanimously answer, as Traytors.

E

(9.) *Ibidem.*

Fifthly, Also it was (9.) demanded, How he was to be punished, who moved in the Parliament, that the Statute might be sent for, by which *Edward* the Son of *Edward*, Great Grandfather to the then King, was adjudged in Parliament; by the Inspection of which Statute, (1.) the new Statute, Ordinance, and Commission aforesaid, were conceived and framed in Parliament? They answer unanimously, that as well he that so moved, as the other, that by pretext of the motion, brought that Statute to the Parliament, were worthily to be punished as Traytors.

F

(1.) *Ibidem.*

There

There are likewise two Articles in the Impeachment of *Alexander Arch-Bishop of York*, *Robert Vere Duke of Ireland*, *Michael de la Poole Earl of Suffolk*, *Robert Tresilian*, and *Nicholas Brember Knights*, which have relation to this present matter, and will serve to illustrate it.

A That having (2.) set the Kings heart and mind against the Lords, and others, that in the last Parliament assented to make the aforesaid Commission and Ordinance. They designed to cause to be arrested, and falsly to indite in *London* and *Middlesex* the Lords Appellants, and certain Commons for Conspiracy and Confederacy, in making and procuring to be made, and causing the King to consent against his Will, to the Statute and Commission contrary to his Regality, and in desherison of him, and derogation to his Crown.

(2.) *Ibidem*,
Art. 26.

B That having (3.) Traiterously informed the King that the Statute, Ordinance, and Commission were made in derogation of his Regality and Prerogative, they strongly possessed him, that all those which made the said Statute, Ordinance, and Commission had a purpose to degrade and depose him, and that they would not give over that purpose until they had perfected it, for which cause the King held them as Enemies and Traytors. There were other Articles against them, but not directly relating to this matter, they are reserved until I come to the Reign of *Richard* the Second, which is their proper place.

(3.) *Ibidem*,
Art. 27.

They not only
deposed, but
caused him to
Murdered af-
terwards.

D The Grounds, Reason, and necessity of this Law clearly appearing by this Parallel, and the Law it self; its beyond the imagination of all but Malicious Men, and such as would allow the Government no power to support it self, how those monstrous Inconveniencies and Consequences should result from it, with which our Writer hath endeavoured to bug-bear and affright unwary and unstable People, and gull them into a fearful Credulity of Impossibilities, by his Arts of Concealing, and partial Citation; If he had looked a little forward into the Laws made in this Parliament, the possibility of such dreadful Consequences and Inconveniencies arising from this Law, could never have entred into his thoughts: for the Commons in the same Parliament supplicated (4.) the King, *Que toutes les bones Estatuts, & Ordeinances avant tes heures faitz, nient Repellez soient fermement tenuz & gardez & dument Executz in toutz leur pointz*, That all the good Statutes made before that time, and not Repealed, might be firmly holden and kept, and duely executed in all their points. To which Petition he Answered in the usual words that made a Law, *Le Roi le Voet*, The King Wills it; who certainly knew when he said so, that his Prerogative how great soever it might be then, was consistent with those Laws, and the Commons likewise understood those Statutes were consistent with his Prerogative, the Rights and Liberty of the Crown, for the preservation whereof they but a little before had made such a generous Petition and Request to him.

(4.) *Rot. Parl.*
15 *Rich.* 2.
n. 25.

Having taken in pieces, fully examined, directly (as I hope) answered, and shewn the easiness, vanity, and delusion of all the Arguments in this Book, and the Appendix to it, and of many others frequently

(6.) *Append.*
n. 10.

Testimonies
to prove that
William was a
Conqueror.

Gul. Pictavi-
ensis.
(7.) *F. 206. A.*

See more of
this Relation
in the *Glossary*
in the word
Electus.

Ordericus Vi-
talis.
(8.) *F. 251. A.*

(9.) *Ibid. D.*

(1.) *Ibidem,*
f. 666. A.

(2.) *Ibidem,*
f. 853. A.

frequently also found in other Authors, brought to prove the (5.) absurdity and falsity of King *Williams* absolute Conquest; Besides the unanswerable Arguments drawn from (6.) *Domesday-Book* to prove it, and others both here and in the Preface to the *Norman* Story mentioned, urged, and explained, over and above the three great Authorities of *Ingulpb* Secretary to King *William*, *Eadmer* a Monk of *Canterbury* at that time, and *Gerbace* of *Tilbury*, who was an Officer in the Exchequer in the time of King *Henry* the Second, I will add Testimonies and Authorities of our best Historians, who were contemporary with, or lived not long after them, for the satisfaction of those who have been deluded by such, as in their Writings have followed their own Fancies, and never took care or pains truly to understand the sense and meaning of our ancient Writers.

I will begin with *Gulielmus Pictaviensis*; who speaking of King *Williams* Coronation, adds, (7.) *Cujus liberi atque nepotes justa successione, presidebunt Anglica terræ, quam & hereditaria Delegatione Sacramentis Anglorum firmata, & Jure Belli ipse possedit.* Whose Children, and Grandchildren, or Off-spring shall govern *England* by a just Succession, which he possessed by an Hereditary Bequest or Delegation, confirmed by the Oaths of the *English*, and by the Rights of War.

The next shall be the Testimony of *Ordericus Vitalis*; who tells us how *William* circumvented the two great (8.) Earls of *Mercia*, and that after *Edwin* was slain, and *Morcar* imprisoned, then *William* began to shew himself, and gave to his Assistants the best and most noted Countries of *England*, and of the lowest *Norman* Clients, or very mean People, he made very rich Colonels and Captains. (9.) *Rex Gulielmus dejectis Merciorum maximis Consulibus, Edwino scilicet interfecto, & Morcaro in vinculis Constricto, adjutoribus suis inclytas Angliæ Regiones Distribuit: Et ex infimis Normanorum Clientibus, Tribunos & Centuriones ditissimos erexit:* and there proceeds to name many that had great Estates given them here in *England*, fol. 522, 523.

In a Conference or Contest between such Noblemen as had Estates both in *England* and *Normandy*, whether it was expedient to permit these Nations to be two distinct Governments after the death of *William*, we find this Passage noted by this Author; (1.) *Nos cum Gulielmo duce pontem transfretavimus, & Saxones Anglos, viribus armisque nostris, Prostravimus, & fundos eorum cum omnibus divitiis, non sine magno cruoris nostri discrimine obtinuimus.* We passed the Sea with Duke *William*, and with our Force and Arms overthrew the *Saxon-English*, and obtained their Lands and all their Riches not without great danger of our Blood or Lives.

The same Author Relates, That (2) *postquam Normannica virtus Angliam Edomuit, eamque Gulielmus Rex suis legibus Commode subegit, Fulcardum Sancti Bertini Sithiensis Monachum Torneia preposuit.* After the *Norman* Force overcame *England*, and King *William* aptly put it under, or governed it by his Laws, he made *Fulcard* a Monk of *St. Omars*, Abbat of *Thorney*.

After

After Ordericus comes William of Malmsbury, and affirms, That England was made an Habitation of Foreigners, and Governed by Strangers, (meaning the Normans and such as came with them) and that at the time he wrote, there was no Natural English-Man a Duke, i. e. a great or Leading Man, a Bishop or an Abbat, all sorts of Comelings or Outlandish-Men devoured the Riches and Bowels of England: nor was there any hopes that this Misery would have an end. (3.) *Anglia facta est exterorum habitatio, & alienigenarum Dominatio; Nullus hodie Anglus, vel Dux, vel Pontifex, vel Abbas. Advene quique divitias, & Viscera Corrodunt Anglæ nec ulla spes finiendæ miseriæ.* And then proceeds with the Norman Story, where speaking of the Battle of Hastings, he says, That was the fatal day to the English, the lamentable destruction of his sweet Country, by its receiving new Lords and Masters. (4.) *Illæ fuit dies fatalis Angliæ, funestum excidium Dulcis Patriæ, pro Eoborum Dominorum Commutatione.* And further speaking of the same Battle, and the Vices and Debauchery of the English, says, That they rather rashly and with headlong fury, than Military skill, joyned Battle with William, whence it was, that by one Conflict, and that an easie one, they cast themselves and Country into Slavery. (5.) *Hinc factum est, ut magis temeritate & furore præcipiti, quam Scientia Militari, Willielmo Congressi, uno pælo, & ipso perfacili, servituti se, patriamque pessunderint.*

William of Malmsbury.

(3.) Malmsb. f. 52. a. n. 4c.

(4.) Ibidem, f. 57. a. n. 30.

(5.) Ibidem, f. 6. n. 10.

To these we joyn Henry Arch-Deacon of Huntington, (6.) *Millesimo, sexagesimo sexto, Anno Gratia, perfecit Dominator Dominus, de Gente Anglorum quod diu Cogitaverat. Genti namque Normannorum asperæ & Callidæ tradidit eos ad exterminandum.* In the year of Grace 1066. the Lord and Ruler of Nations perfected what he had long intended to the English, for he delivered or gave them over to the rough and subtle Nation of the Normans to be destroyed. And in another place, *Anno vigesimo primo* (8.) *Regni Willielmi Regis, cum jam Domini justam voluntatem sup. Anglorum gentem Normanni Complessent: nec jam vix aliquis Princeps de Progenie Anglorum esset in Anglia, sed omnes ad servitutem, & ad Mæcerem redacti essent, ita ut Anglicum vocari esset opprobrio: Hujus author Vindictæ Gulielmus, vitam terminavit. In Anglia his temporibus, Thelonea injusta & pessima Consuetudines pullulaverunt.* In the Twenty first year of the Reign of King William, when the Normans had fulfilled the just Will of the Lord upon the English, nor was there then any great Person of the Stock of the English in England, but all were reduced to servitude and sorrow, so as it was opprobrious to be called an English-Man, William the Author of this Punishment or Judgment died. In these times unjust Tolls, and very evil Exactions sprang up. In the beginning of the Story of William Rufus, there may be seen this passage, (9.) *Declaratum Constat, quo modo Dominus salutem, & honorem genti Anglorum pro meritis abstulerit, & jam populum non esse jusserit.* It hath been declared, how the Lord according to their deserts took away the Weal and Honour of the English Nation, and at this present hath Comanded they should not be a People.

(6.) F. 210. b. n. 10.

Henry Arch-Deacon of Huntington.

(8.) Ibidem, f. 212. a. n. 30, 40.

(9.) Ibidem, f. 213. n. 40.

To these we add John Brompton, (1.) *Willielmus Terras Anglorum, Magnatibus ac Militibus, & aliis hominibus suis Franciæ*

(1.) Chron. Joh. Brompton, col. 963. n. 10.

(2.) *Ibidem*,
col. 281. n. 30.

& Normanniæ, *Qui secum in Conquesta suo extiterant*, donavit; King William gave to great Men and Knights, or Soldiers, and other his Men of France and Normandy, the Lands of the English; and then reckons up about 250 to whom he had given Estates. (2.) *Deus ad Exterminium Anglorum præordinaverat ferocem populum, Normanorum, quadam prærogativâ savitiæ singularis præminentem, &c.* God for the destruction of the English, pre-ordained the fierce People of the Normans eminent for their singular Cruelty, &c. where the Reader may see what hardship the English endured under them.

A

(3.) Col. 1327.
lin. 3.

Gervase of
Canterbury.

Next we produce Gervase of Canterbury, (3.) *Regnante Rege Willielmo primo Qui armis Angliam adquisivit, Caput Ecclesia Dignitates suas dediscere, nam idem Willielmus Regno sublimatus, tam Ecclesiastica jura, quam secularia, sibi usurpavit, Sacerdotes, & Ecclesias oppressit, Episcopos deposuit, & alios supposuit*; In the Reign of King William the first, who obtained England by Arms, the Church began to lose her Dignities, for the same King being exalted to the Kingdom, he used both Ecclesiastick, and Secular Rights or Laws as he pleased. Churches and Priests he oppressed, Bishops he deposed, and substituted and appointed others whom he would. In another place of the same Author, *Dux (4.) Willielmus postmodum cum armis Regnum Anglorum obtinuisse, ex assensu Papæ Alexandri Lanfrancum vocavit in Angliam*; Duke William after he had with Arms acquired the Kingdom of the English, by the assent of Pope Alexander called Lanfranc into England.

B

(4.) Col. 1652.
n. 60.

C

(5.) Fol. 5.
n. 10.
Mat. Paris.

From these we proceed to Matthew Paris, whose words are these, (5.) *Dux Normanniæ W. Civitatibus Dispositis, & Castellis, propriisque ministris impositis, ad Normanniam cum obsidibus Angliæ & Thesauris innumeris migravit. Quibus incarcerationis & sub salva Custodia Deputatis, ad Angliam denuo properavit, ut Comilitonibus Normannis, qui in Bello Hastingsensi Patriam secum Subjugaverant, Terras Anglorum & Possessiones, ipsis Expulsis, manu distribueret affluentibus, & Modicum illud Quod eis remaneret, sub Iugo poneret perpetuæ servitutis, i. e. William Duke of Normandy having put the Cities and Castles into a posture of defence, and placed his own Soldiers in them, went thither with his English Hostages, and innumerable Treasure, who when he had Imprisoned, and put into safe Custody, he presently hastned into England, that he might with a plentiful hand distribute the Lands of the English, who were expelled from, or violently thrust out of them, to his Fellow Soldiers the Normans, which together with himself in the Battle of Hastings, had subdued the Country; and that little which was left, he put under the Yoke of perpetual Servitude.*

D

E

(6.) F. 7.
lin. 3.

In another place, (6.) *Rex Willielmus Episcopatus & Abbatias omnes quæ Baronias tenebant, & eatenus ab omni servitute seculari libertatem habuerant, sub servitute Statuit militari; innotulans singulos Episcopatus, & Abbatias pro voluntate sua, quot Milites sibi & Successoribus suis, hostilitatis tempore, voluit a singulis exhiberi.* King William brought under Military Service, the Bishopricks, and all the Abbies which held Baronies, (that is, as much Land, upon which a Barony might be erected) and until that time had them free from all Secular Service or Servitude, Enrolling every Bishoprick and

F

and Abby according to his pleasure, how many Knights or Horsemen they should find for him and his Successors in time of Hostility.

And in a third place speaking of the Promotion of *Paul* Abbat of *St. Albans*, he says, *Paulus* (7.) *Natione Nenster, promotus in Abatem Anno Gratiae 1077. quarto Kalendarum Julii, tempore Regis Willielmi, Regis majoris, scilicet Conquestoris; Anno Regni ipsius undecimo. Hic primus Abbas hujus Ecclesiae fuit, postquam Anglia Normanis penitus fuit subjugata.* *Paul* by Nation a *Norman*, made in the year of Grace 1077. on the Twenty eighth of June, in the time of King *William*, the great King, that is to say, the Conqueror, in the Eleventh year of his Reign. This was the first Abbat of this Church after *England* was wholly subdued by the *Normans*.

(7.) *In vitis*
Abbat. f. 49.
n. 30.

Matthew of *Westminster* gives us the very same Account of the Actions and Behaviour of King *William* the Conqueror, and almost in the (8.) same words with the first Citation of *Mat. Paris*, wherefore I forbear to repeat them. He only adds, That (9.) *De Rege factus Tyrannus, cum se viderat in sublimi Elevatum, & in fastu Regni Confirmatum, in alium virum est subito Transmutatus, Nobiles Terrae quos avitus sanguis ab antiquo Sublimaverat, pro dolor, conculcando.* Of a King being made a Tyrant, when he saw he was confirmed in the Kingdom, suddenly he was changed into another Man, trampling under foot the ancient Nobles of the Land, who had been exalted by the Blood of their Ancestors.

(8.) *F. 225.*
n. 40.
(9.) *Ibidem.*
Math of
Westminster.

Chronologia Rothomagensis, Printed at the end of *Gabriel du Moulin*s History of the Conquests of the *Normans*, acquaints us with the same things. (1.) *Willielmus Dux Normannorum trajecta in Angliam Classe, Haraldum interfecit occupatorem Regni, & felicibus auspiciis Regnum Conquirat, Hic ibi nobos Creat Magistratus, & antiquam vivendi rationem immutat, Leges quas in hunc diem Angli observant, idioma Normanico promulgavit, Regnumque quod longa rerum serie, adhuc durat, inchoat, William Duke of Normans, passing with a Fleet into England, killed Harold the Usurper of the Kingdom, and by fortunate success Conquered it. There he created new Magistrates, and changed the ancient way of Living; The Laws which at this day the English observe, he published in the Norman Language, and began that * Government which hath a long time continued.*

(1.) *Anno Domini 1066.*
The Chronology of Rovent.

The Register of the (2.) Honour of *Richmond* agrees with the preceeding Testimonies. *Willielmus Bastardus postquam Coronatus fuit in Regem Angliae per Conquestum; Auxilio Matildis Reginae suae, dedit Alano Fergant Comiti Britanniae, Honorem & Comitatum Comitatus Edwini in Eborakshire, Qui modo vocatur Richmundshire, & qui ad tunc extitit Geldable, & postea Regum privilegio in Libertatem est mutatus.*

* *Regnum* in this place most properly significth Government, as it frequently doth in many Authors.
(2.) *In Bibl. Cotton. sub Effig. Faustini. B. 7. f. 72.*
Selden's Preface to ten Authors, f. 36, 37.
(3.) *Ibidem.*

Hic (3.) *Alanus primo incepit facere Castrum & munitionem, juxta Manerium suum Capitale de Gilling pro tuitione suorum contra invasionem Anglozum tunc ubique Exhereditatorum, & similiter & Danorum, & nominavit dictum Castrum Richmond, suo idiomate Gallico quod sonat Latine Divitem Montem, i. e. William the Bastard*

after he was Crowned King of *England* by Conquest, at the request of *Maud* his Queen, gave to *Alan Fergant* Earl of *Britain* the Honour and Earldom of Earl *Edwin* in *Yorkshire*, which is now called *Richmondshire*, and which was then *Geldable*, and afterwards by the privilege of Kings was changed into a Liberty.

This *Alan* first began to build a Castle and Fortrefs by his capital Maner of *Gilling*, for the defence of his People, against the annoyance of the *English* every where dishinherited, or dispossessed of their Estates, as also of the *Danes*, and named the said Castle *Richmont*, which in his *French* Language signifies Rich Hill or Mountain.

Henry de
Knighton.

(4.) Col. 2354.
n. 40.

I will conclude these Authorities of the ancient Historians with the Testimony of *Henry de Knighton*, who speaking of the death of *William* the First, delivers himself in these words, (4.) *Mortuo Willielmo vix erat in Anglia, princeps Anglicus; imo Anglis in Servitutem redactis, probosum fuit vocari Anglicus, Deus enim ad Exterminium Anglorum, praordinaverat populum ferocem, Quorum natura est, cum hostes deprefferint, ipsi se deprimant, i. e.* When *William* died there was scarce in *England* any great or powerful *Englishman*; yea, the *English* being brought into Servitude, it was a Disgrace to be called an *Englishman*; for God had pre-ordained a fierce People for the destruction of the *English*, whose nature is such, that when they have destroyed their Enemies, they then destroy themselves. This is clear from the Murthers, Rapines, Burnings, and Hostilities committed anciently in *Normandy* by the *Normans*, in their Disputes one upon another, and by our Barons Wars.

(5.) Glossar.
Mr. Lambard.

As to Modern Authorities I will mention only two, the first is *Mr. Lambards*, in the Explication of the word (5.) *Hereot*. *Hereotum armamenta sive Belli instrumenta significat, & Constat sane primis temporibus, nomine apparatus Bellici, Dominis Tributum Conjectura est igitur, Normannos Victores, Anglis victis, omnique spoliatis armatura Hereotum remisisse, atque a miseris pecuniam Exegisse, i. e.* The word *Hereot* signifies Arms, or Instruments of War, and 'tis evident that in old times it was given by Tenents to their Lords, as Warlike Furniture; Therefore it may be guessed that the Conquering *Normans* remitted the *Hereot* to the Conquered *English*, when they were totally disarmed, and exacted of those miserable People Money or Cattle in lieu of it.

(6.) Britan.
f. 109.
Mr. Camden.

The second is *Mr. Camdens*, who in this manner speaks his mind concerning this matter; (6.) *Victor Gulielmus, in Victorie quasi Trophæum, antiquatis maximam partem Anglorum legibus, Normannie Consuetudines induxit, Causasque Gallicè disputari Jussit; Exclusis hereditate abita Anglis, agros & prædia, Militibus suis assignabit, ita tamen ut Dominium directum sibi reservaret, obsequiumque Clientelari Jure, sibi & successoribus Devinceret, id est, ut omnes fendo & fide tenerent, & Nulli præter Regem essent veri Domini, sed potius fiduciarii Domini, & possessores.* *William* the Conqueror, as a Token of his Victory, laid aside the greatest part of the *English* Laws, and brought in the Customs of *Normandy*, and Commanded Pleadings to be in *French*. The *English* being thrust out of their Inheritance,

tance, or the Possessions of their Ancestors, he assigned their Lands and Maners to his Soldiers ; yet so as he reserved the direct Dominion or Propriety to himself, and secured their Service to him and his Successors by Homage : that is, that they should all hold their Estates according to the Feudal Law, and that none besides the King should be true Lords, but rather Fiduciary Lords (that is, Trustees as it were, and Lords but for a time) and Possessors.

What hath been said concerning this Controversie in the Preface to the *Norman* Story, and in this Answer, with these Authorities, were enough, a Man would think, to put to silence, and convince the most Pertinacious Gainsayer imaginable ; but such is the monstrous Industry, the matchless Confidence of Men of this Temper and Party, that for driving on the old Design, and amusing the People and Rabble with such a strange Notion of Liberty ; That they are to be under no Law or Government ; That the Prince hath no Power, but what they give him ; That they are all Law-Makers, and to meet in Parliament, *omnes de Regno*, all Men of the Kingdom ; That they will proceed to Scribble for the good old Cause, (for that must be revived if their Notion of Liberty succeeds) though against their Knowledge, and perhaps Judgment, under pretence of Truth, serving the King and Government, asserting the Rights of the People, defending the Laws, &c.

I shall give a Specimen of our Authors Confidence in the following Parallel, First rehearsing his own words near the Close of his Discourse. (7.) If any Man can truly and impartially either shew, first, that I have misquoted the Authors and Books I cite : and that such Passages do not occur in the places quoted ; or secondly, if they do occur, that I have mistook their meaning, as to the purposes for which they are produced ; I say, if any Man can, and will ingeniously shew me either of these, I shall be so far from not confessing my fault, or declaring how I was misled into it, that I shall have a hearty value for any such friendly Admonition, and receive it with all the grateful acknowledgment as becomes me. These are his very words, the parallel follows.

Argumentum Antinormanicum, Verstegan, Printed at London
 p. 8, 9. out of *Verstegan*, 1634. and dedicated to
 dedicated to King *James*, King *James*, pag. 173.
 p. 173.

CONvening his Parliament, or Assembly of three Estates, which consisted of the Clergy, Nobility, and Commons ; The Nobility in fine promised to serve him, and the Clergy and People to aid him with Money according to their several abilities ; and such Offers as they made, were forthwith set down in Writing by a Secretary there present.

THE Duke so much prevailed in his Assemblies of the three Estates, which consisted of the Clergy, Nobility, and Commons, that in fine the Nobility promised to serve him, and the Clergy and People to aid him with Money according to their several abilities ; and such Offers as they made, were forthwith set down in Writing by a Secretary there present. *Odo* Bishop

This amongst other things is brought to shew, with what Supplies Duke *William* prepared for *England*, and that his Quarrel was more Personal than National, and that he came only to Conquer *Harold*, p. 9.

longue, and others, promising to give Land unto every of them in *England*, if he Conquered it. See further in this Answer, fol. 246. Speak Sir, Is this Passage fairly cited? 'Tis true, what you quote is there to be found: but reflect upon your partiality; Is the meaning of it according to the purpose for which you produced it? surely quite contrary, had it not been for your art of concealing.

Argument. *Antinorm.* p. 13. out of *Malmsbury*, but hath concealed the Author.

QUOD *equo Jure Anglos & Francos Tractaret.* This is produced to prove, that there was one extraordinarily necessary Article added to the Oath of King *William*, more than was in the Oath of the *Saxon* Kings; which Oath he intends, and supposeth all Men should believe, as well as he himself seems to do; That King *William* Religiously observed and kept it; Or he brings it to no purpose, to prove that he was no Conqueror.

ctionem dedisset immerito, Quod cum relatum esset Regi, amicorum admonitione delinitus, misit, qui Episcopum exoraret. Veruntamen prævenerat nuntios, mors antistitis, Qui ex agritudine animi (ut plerunque fit) Contracto morbo decubuerat, & obierat. That is, *Aldred* (Arch-Bishop of *Tork*) being requested, performed the Consecration or Coronation of King *William*, having first exacted an Oath before all the People, That he would behave himself moderately toward his Subjects, and that he would treat the English with the same equal Right he did the French. Therefore so long as he carried himself with Temper towards those under his Jurisdiction, he Loved him as his Child, and Honoured him as his King; but when he exacted from them an importable Tax, he sent Messengers to him, which with difficulty he admitted, and sent them back with a rough answer; forthwith the Arch-Bishop Cursed him and all his Progeny; saying, he might worthily Curse, where he had unworthily Blessed. Which being told to the King, he was perswaded by his Friends to send and reconcile himself to him; but he died before the Messengers came to him, of Grief (as it often happens.)

of *Bayeux* accorded to furnish him with forty Ships, the Bishop of *Mains* with thirty, and others according to their benevolent Minds. Then began he to desire Aid of the Princes his Neighbours, as of the Earl of *Anjou*, *Poitou*, *du Main*, *Ponthieu*, *Bou-*

Malmsbury, f. 154. b. n. 10.

EXhortatus *Aldredus* Consecrationem egit, exacto prius coram omni populo, jure jurando, Quod se modeste erga subjectos ageret, & equo Jure Anglos, quo Francos, tractaret; itaque illum quamdiu erga suos temperiem habuerit, dilexit ut prolem, veneratus est ut Regem; sed cum importabilis Tributi pensum a provincialibus exigeret; Convenit eum per legatos Antistes, Quos agrè admissos, cum turbulento Responso abegisset, non moratus ille, maledictionis telum, in illum, & omnem ejus vibrabat progeniem prefatus, posse se maledictionem dare merito, Qui Benedi-

Say, Sir, Have you cited the Author from whom you had this Passage? Is the meaning of this whole Story, whereof the words by you produced are a Scrap, according to the purpose for which you produced them? If you had dealt fairly and impartially in this Citation, would it not have destroyed your whole Argument against the Conquest, from the Coronation Oath? And was not this the reason you concealed the Author, and the Words, and Story, both preceding and following those you cited?

Argumentum Antinormanicum,
pag. 22.

Floren. Wigorn. f. 634, 635.
Sim. Dunelm. Col. 195. n
30. Hoved. f. 258. a lin.
1. &c. They all have the
same words.

And *fædus pepigit*, he made a Solemn Covenant with the *English* to observe and keep those Laws, which were *bonæ & approbatæ & antiquæ Leges Regni*. He hath concealed his Author whence he had this Scrap *fædus pepigit*, for the words *bonæ & approbatæ & antiquæ Leges Regni* belong not to it. They are to be found in *Mat. Paris*, in the Life of *Frederic* Abbat of *St. Albans*, f. 48. n. 30, 40. without the words *fædus pepigit* preceding them.

Comes *Gulielmus*, *Sutbregiam* *Middle-Saxoniam*, *Hartfordensem provinciam*, devastabat; & villas tremare, homines interficere non cessabat donec ad villam *Beorcham* veniret, ubi *Adeldredus* *Archiepiscopus*, *Wulstanus* *Wigornie* *Episcopus*, *Clito* *Edgarus*, *Comites* *Edwinus* & *Morcarus*, & de *Lundonia* *Quique Nobiles*; cum multis aliis ad eum venerunt; & datis obsidibus, illi deditiōem fecerunt, fidelitatemque Juraverunt, cum quibus, & ipse *fædus pepigit*; & nihilo minus exercitus suo villas tremare, & Rapinas agere permisit. Appropinquante igitur, *Dominicæ* *nativitatis* *festivitate*, cum omni Exercitu *Londoniam*, ut ibi in Regem Sublimaretur, adiit. Earl *William* wasted *Surry*, *Middlesex*, and *Hartfordshire*, burnt Towns, and killed Men, until he came to the Town of *Beorcham*; where *Aldred* the Arch-Bishop, *Wulstan* Bishop of *Worcester*; and Prince *Edgar*, the Earls *Edwin* and *Morcar*, and all the Nobility from *London*, with many others came unto him, and having given Hostages, submitted and Swore Fealty to him; with whom he made a Truce or Agreement. And nevertheless he permitted his Army to burn Towns, and commit Rapine; and *Christmas* approaching, he went to *London* with all his Army, that he there might be made King. I find not the words *fædus pepigit* in any other Story but this, where there is no Covenant to observe the good, approved, and ancient Laws of the Kingdom. Why did you conceal the Authors of these words? Was it not, because if this Story had been looked into, they could not possibly have been applied or construed according to the purposes for which you produced them? Is not here the Submission of the People, Fealty Sworn, Hostages given, Towns burnt, Rapine committed? Was he not made King by the Influence and Power of his *Norman* Army, which none could resist? Are not these Marks of a Conqueror?

Argumentum Antinorm. p. 24.
out of *Seldens* Notes upon
Eadmer, f. 173.

Hoveden, f. 342. b. n. 30,
40, 50, f. 343. a. n.
10.

CEs sont les leis & les Cu-
stumes que li Reis William
grantut à tut le peuple de Engle-
terre, apres le Conquest de la
terre, Ice les Meismes, que le Reis
Edward son Cousin tint devant luy.
These are the Laws and Customs
which William the King granted
to the whole People of England,
after the Conquest of England;
These are those which the King
Edward his Cousin held before
him. In these Laws recited by
Hoveden in the Life of King
Henry the Second, King Edwards
Laws are confirmed in these
words; This We Command,
That all Men have and hold the
Law of King Edward in all things,
together with those Laws which
we have added for the profit of
the English. Concerning these
French Laws, and those added
for the profit of the English, see
this Answer, f. 254. A. B. C. &c.
f. 257. E. F. &c.

twenty more; which one and twenty Sir Roger Twysden also sub-
joins to the same Croyland Copy; *Lambard. Archaionom. f. 170.*
out of the Red Book in the Exchequer, as being the best Exemplar
of them. Of these additional Laws nine only are to be found in
Hoveden, which he says were added for the profit of the English, and
those imperfect, as may appear by comparing of them, and the Te-
stimony of Mr. Selden, which he says, *apud Rogerum Hovedenum ex
mutilo nimium Exemplari obtrusa sint, aut librarorum injuriâ decurtatae,*
Not. ad Eadm. lin. 38.

Argumentum Antinorm. p. 28.

King William finding there
was no remedy, though
he was long resolute, at last in a
Common Council of his King-
dom yields, and by his *Magna
Charta* he confirmed to them
their ancient Laws, *ad preces
Comunitatis Anglorum.* And then

Lambards Archaionom. f. 149.
ibid. the fragment of
Litchfield Chronicle, f.
158. *Hoveden*, f. 347.
n. 10.

IN all these we are told what
William did, *ad preces Comu-
nitatis, Baronum, or Anglorum;*
runs

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runs on with a Citation out of Sir Edward Cokes Preface to the Eighth Report.

'Tis there said (if the Story be true) that he unwillingly granted their Requests; but 'tis not said in any of these Authors,

that he could find no other Remedy, or that he was forced to yield to their Requests. Was he not Crowned; and made King by and under the influence and power of an Army? Was not that Army still with him? Why then do you say he could find no other Remedy, than to consent to their Petitions? Cannot crafty designing Men yield, though with reluctancy, what they cannot be forced to? Have they not often complied, though they had power to do otherwise? See more of this matter in this Answer, f. 241. D. E. f. 250. C. D.

Argument. Antinorm. p. 29, 30. out of Mat. Paris, in vit. Frether. Abbat. f. 48.

Mat. Paris, in vita Fretherici Abbat. St. Alban. fol. 48. n. 30, 40.

For the good of Peace, William Sware upon all the Reliques of the Church of St. Albans, touching the Holy Gospel, Abbat Frederic Administring the Oath, the good and approved ancient Laws of the Realm, which the Holy and Pious Kings of England his Ancestors, and especially King Edward set forth, inviolably to keep. From hence he would prove that William was no Conqueror, and that he did not abolish the English Laws, or change them; and that he submitted his Will to be regulated and governed by Justice, and the ancient Rights of the Englishmen, pag. 30. and here again he would impose upon his Readers, by possessing them by this Fragment, that William did really observe and keep this Oath, and ruled accordingly.

Ex pro bono pacis Juravit super omnes Reliquias Ecclesie Sancti Albani, tactisque Sacrosanctis Evangelis (ministrante Juramentum Abbate Frithrico) bonas, & approbatas, antiquas Regni leges; quas Sancti, ac pii Anglie Reges, ejus antecessores, & maxime Rex Edwardus Statuit, inviolabiliter observare, & sic pacificati, ad propria lati recesserunt; and so they were appeased and returned to their own homes. Rex autem Caute propositum suum pallians; infra paucos dies, quos non poterat Confederatos, & Congregatos superare; singulos dispersos, ac semotos occulte ac subito studuit, incautos infestare, ac infestatos & infestos suppeditare. Multos eorum Trucidando, Exheredando, & quam plures proscribendo; Leges violans memoratas; & spoliatis Anglis pro libitu, ac sine Judicio Curiali depauperatis,

suos Normannos, in suorum Anglorum naturalium, qui ipsum sponte sublimaverunt, provocationem, locupletavit, i. e.

The King craftily palliating his purpose, within few days privily and suddenly surpris'd them when single and dispersed, who being united in a Body, he could not overcome; Many he put to death, from others he took their Estates, and very many he banished: violating that Law he had Sworn to observe, taking away their Estates at his own pleasure, without Judicial Proceedings, thereby impoverishing the Natural English, and enriching his Normans.

In

In the Seventh or Eighth of King *William*, the *Saxon* Nobility and Clergy that were left, raised an Army against him, and Rendezvoused at *Berchamstead*, and he to pacifie them Swore as above ; by which Oath when he had made them secure, and circumvented them, he used them as we have heard.

Could you without your art of concealing, have produced this Story, to have proved, that King *William* observed the good, approved, and ancient *English* Laws ? Could you have vouched it to prove, that he submitted his Will to be regulated and governed by Justice, and the ancient Rights of *Englishmen*, without unheard of, and frontless Partiality ? Yet these are the Inferences you make from the Sound only of your Scrap, p. 30. A

Argument. Antinorm. p. 33.

Nay though every body will acknowledge, that *Harold* came to the Imperial Crown of *England* by a general Election of the chief of the Nation, yet there is an ancient Author calls him Conqueror ; and cites only *Ralph de Diceto, in Abbrev. Chr. col. 479.* to prove it ; *A totius Angliæ primatibus ad Regale Culmen Electus* are his words ; and only these he cites there in the Margin.

the chief of the Nation, who by King *Edward* had been named his Successor to the Kingdom ; See in the *Glossary* the word *Electus*. Further, Nor did every body, nor most of our best and ancientest Historians know it, for in this Answer (as above noted) it appears, that *Pictaviensis, Ingulph, Malmsbury, Hen. of Huntington, and Mat. Paris* judged him an Usurper, affirming, that by fraud and force he set the Crown upon his own Head. And our Author is unlucky in this point, for he confesseth it himself, P. 6. Hereupon considering how *Harold* had trickt him, and set the Crown on his own Head, he sends over several Ambassadors, &c. For what end did you conceal the greatest part of this Relation in *Ralph de Diceto* ? Was it not, for that if you had cited it fairly, the meaning of it could never have served your purpose ? D

Argument. Antinorm. p. 25, 26.
out of *Seld. Tit. of Hon. fol. 523.* and he from *Malmsbury.*

THIS *William* the First with his *French* and *Normans*, putting many hardships upon the

Rad. de Diceto, Col. 479. n. 10. Answer to *Argument. Antinorm. f.* B

Pacificus Rex Edwardus, Epiphaniæ Domini vigilia, mortem obiit Lundonia; Haraldus Godwini filius, quem Rex ante suam Decessionem, Regni Successorem Elegerat, a totius Angliæ primatibus, ad Regale Culmen Electus, &c. This one Author is not every body, and if he were, these words will not prove that *Harold* was elected, but only accepted and submitted unto by C

Malmsbury, f. 46. b. lin. 6. and n. 10. E

TO *stinus a Rege Edwardo post mortem Siwardi Northanimbriæ Comitatus Prælati, pene decennio provincie præfuit, quo exacto, asperitate morum Northan-* *English,* F

English, which occasioned great disorders and convulsions in the State, several of the Saxon chief Nobility betook themselves to Arms for the sake of their *avite Consuetudines*, to which they bore an immutable and immortal love, and which they feared some were endeavouring to take away and change them; though on the other hand they were obstinately resolved never to part from them, for they had a *majoribus didicisse, aut libertatem, aut mortem*; and they would rather undergo the worst Calamities of a more cruel War, than they would tamely quit and abandon those dear Laws and Customs to which they had so long been used, and were so well acquainted with.

The King hereupon to keep the People in a greater observance of their Duty, and withal not forgetting the Oath he had taken at his Coronation, caused twelve of the most Discreet and Wise Men in every Shire throughout *England*, to take an Oath, to declare and lay open their Laws and Customs, without concealing, adding, or varying from the truth. See more in the Answer, f. 259, 260.

'Tis clear from it self, that this pretty Tale is all founded upon the words, *a majoribus didicisse, aut libertatem, aut mortem*, which were never uttered in this case, nor to this purpose, as appears in *Malmsbury*, from whence their Original.

ancestors, either to enjoy their Liberty, or hazard their Lives; and if the King would have them obedient, he should send *Morcar* the Son of *Algar* for their Earl. *Harold* considering the Peace of the Country, more than the Advantage of his Brother, withdrew his Army, and coming to the King, fixed *Morcar* in the Earldom.

Were you not in a Dream when you transferred this Story of *Tosti* and the *Northumbrians*, to *William* the First, and the *English-Saxons*?

imbros in Rebellionem excitavit. Solitarius enim repertus ex regione fugaverunt, pro contutu Ducatus occidendum non arbitrati: Homines ejus & Anglos, & Danos obtruncarunt; equos, & arma, & supellectilem omnem Corradentes; Rumore ad Regem delato, turbataque patria, Haroldus ruit obviam; ut propulsaret injuriam. Northanimbri licet non inferiores numero essent, tamen Quiescentes, factum apud eum excusant; Se homines libere natos, libere Educatos, nullius ducis ferociam pati posse, a majoribus didicisse, aut libertatem, aut mortem. Proinde si subditos velit, Wacerium filium Elgari eis præficiat Rex. Hæc Haroldus audiens, qui magis Quietem patriæ, quam fratris Comodum attenderet, Revocavit Exercitum, & adito Rege, firmum Ducatum Wacerio Constituit.

King *Edward* after the death of *Seward*, made *Tosti* Earl of *Northumberland*; who by his rough temper forced the People into Rebellion, and finding him without an Army, drove him out of the Country, killed his Men or Vassals, both *Danes* and *English*, seizing upon their Horses and Arms, and all their Goods. Which being reported to the King, he sent *Harold* to chastise them. The *Northumbrians*, though not inferior in number, consulting their own quiet, excuse the Fact, saying, *They were Men freely born, and freely educated, and could not endure the Cruelty of any Duke or Earl, That they had learnt from their An-*

Argument. *Antinorm.* p. 57.
out of *Sim. Dunel.* f. 214.

Sim. Dunelmen. Col. 214. n.
30. Anno Dom. 1088.

THere is one thing more I cannot but mention, and that is, the inconsiderateness of those Men, who so mightily cry up the absolute Conquest of *William* the First over the *English*, as if they were utterly broken or crushed, and all their Laws and Customs destroyed; when as it is demonstrably manifest, that at the time of *Robert* and his *Normans* Treason and Conspiracy against *William Rufus*, then King, and his Brother, to cut off him, and make *Robert* King in his room; I say, then the Interest of the *English* was so great and powerful, that it kept the Crown upon *Rufus* his Head, maugre all the power of the *Normans*, who universally joyned with *Robert*; and all this is easily proved, from a Scrap of four words in his Margin, out of *Simeon of Durham*, Anno 1088. f. 214. *Angli eum fideliter iuvabant.* The *English* faithfully assisted *William Rufus*.

or kill him, and deprive him of his Kingdom. The chief in this Execrable Practise were *Odo* Bishop of *Bayeux*, and Earl of *Kent*, and *Goffrid* Bishop of *Constance* in *Normandy*, *Robert* Earl of *Mortaign*, the Conquerors half Brother, and *Roger* Earl of *Shrewsbury*, and the greatest Men of *England*, except *Lanfranc* the Arch-Bishop. And number 60, in this Column, he adds to the Friends of *Robert*, *Roger Bigot*. *Florence of Worcester* adds *William* Bishop of *Durham* (as he says) a Wise Man, who at that time managed all the Affairs of the Nation; and *Eustachius* the younger Earl of *Bulloign*, and *Robert de Belesmo*, fol. 642. *Ordericus Vitalis* adds, *Hugh Grentmaisle* Earl of *Leicester*; His Author *Simeon of Durham* relates what these did in their endeavours to set up *Robert*, and then proceeds: *Hoc audito, Rex fecit Convocare Anglos, & ostendit eis traditionem Normannorum, & rogavit, ut sibi auxilio essent, eo tenore, ut si in hac necessitate sibi fideles existerent, meliorem legem, quam vellet eligere, eis Concederet; & omnem injustum Scottum interdixit, & Concessit omnibus, Sylvas suas, & venationem. Sed quicquid promisit, parvo tempore Custodivit; Angli tamen et fideliter iuvabant,* Col. 215. lin. 1. &c. The King hearing what was done, called together the *English*, and declared to them the Treason of the *Normans*, and desired their assistance, upon condition, That if they would be faithful

Hoc anno inter *Primates Anglie* orta est discordia, *Pars etenim Nobilium Normannorum* favebat *Regi Willielmo*; sed *Minima*: pars vero altera favebat *Roberto Comiti Normannorum, & Maxima*; Cupiens hunc sibi asciscere in Regnum; fratrem vero ejus, aut fratri tradere vivum, aut regno Privare peremptum. Hujus execranda rei *Principes* extiterunt, *Odo Episcopus Bajocensis*, qui & erat *Comes Cantuariensis*, & *Goffridus Episcopus Constantinensis*, & *Rodbertus Comes Moritunensis*, & *Rogerus Comes Scrobbesbyriensis*; & *Excellentiores principes totius Anglie*, excepto *Lanfranco Archiepiscopo*, i. e. This year there arose a great Division between the chief Men of *England*, for part of the Noble *Normans* favoured King *William*, but the least; the other part favoured *Robert* Earl of *Normandy*, which was the greatest; intending to make him King, and to deliver his Brother to him alive,

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faithful to him in this necessity, he would grant them the best Law they would choose; He forbid all unjust Scots, (*i. e.* Collections or Tallages) and granted to all their Woods, or Forests, and Hunting. But whatsoever he promised he observed but a small time; yet the *English* assisted him faithfully. This Author doth not mention who, nor what *English* they were, nor do any of our ancient Historians that I have seen; and therefore we must have recourse unto *Ordericus Vitalis*, an *Englishman* born, and a *Norman* Monk at this time, who gives an account what they were, fol. 667. C. His words are these; *Omnes Episcopi Angliæ, cum Anglis sine Dolo Rege juvabant, Hugo Comes Cestrensis, & Robertus de Bolbray Nordanhumborum Comes, & Guillelmus de Guarcna, ac Robertus Haimonis filius, alique Legitimi, maturique Barones, Regi fideliter adhærebant, eique armis & Consilio contra publicos hostes Commode fa- vebant.* All the Bishops of England, with the *English*, without fraud assisted the King, *Hugh* Earl of Chester, *Robert de Mowbray* Earl of Northumberland, *Robert Fitz-Hammon*, (he was Earl of Gloucester, and had the Estate of *Brihttric*, the Saxon Earl thereof before the Conquest, given him, *Monast. vol. 1. f. 154. col. 2. n. 40.*) and *William de Warena*, and other lawful and ancient, or rather true and discreet Barons, adhered faithfully to the King, and helped him by Arms and Counsel against the publick Enemies. Besides these, I find *Robert de Roelent* particularly named as his General against *Rocheſter* Castle. By these, and the Aid of *Roger* the great Earl of *Shrewsbury*, who was drawn and wheedled off from the Party of *Robert*, *Malmſbur. fol. 68. a. n. 10, 20.* the Confederacy against *William* was broken and destroyed.

If you had not been more eager in pursuit of a Scrap, than the Truth in this Relation, you might have observed, that the *Primates Angliæ* were on both sides, that the *Primates Angliæ*, the Chief of England were the *Nobiles Normanni*, the Noble *Normans*, and that they were both the same Persons as to Extraction, whereof the least part favoured King *William*, and the greatest Earl *Robert*. You might also have observed, that the *English* that *William* called together to advise and assist him in his Difficulties, had Woods (no small ones certainly) or Forests, and pretended to liberty of Hunting in them, and if you can shew that the Bulk of the *English* had such Possessions, or Priviledges at that time, (as they must have done, if your Assertion be true) I will forgive you this slip. You might also have observed, (if you had thoroughly understood this Story) that all the *Primates Angliæ*, or the *Nobiles Normanni* particularly named on both sides, were really *Normans*, and not an *English-Saxon* amongst them; and that these great Men particularly named were those *English* that *William* called together; for 'tis not to be supposed he would propound and discourse of such great Affairs with little ordinary People. And lastly, from all these you might have observed, that it is highly probable, if not certain, that the *English* in this and many other cases mentioned, were *Normans* that had Estates in England, and lived there, and that the *Normans* were such as had Estates in England and lived in *Normandy*. More of which in the Glossary.

Argumentum Antinormanicum,
p. 110. LL. Gulielm. 55.
there cited in the Margin.

ANd one Law may be called the first *Magna Charta* in the *Norman* times, by which the King reserved to himself, from the Freemen of this Kingdom, nothing but their free Services due to him according to Law; In the conclusion saith, That they, to wit, the *English*, shall hold and enjoy their Estates well and in Peace, free from all unjust Exactions and Tallages; and this ratified and confirmed by the Common Council of the whole Kingdom.

Argumentum Antinormanicum,
p. 111. 112. out of *Dugdales Orig. Juridic.* f. 16.
as 'tis cited in the Margin,
p. 108.

THe chief and principal Men of several Ranks and Degrees in Condition, were summoned by virtue of the Kings Writ, out of several respective Counties, Cities, and Burghs, to this general Synod or Parliament.

Appendix to *Argumentum Antinormanicum*, p. 162.

FOr the Petition and Law is, That *Richard* the Second should be as free in his Regality, Liberty, and Dignity Royal

LL. 55. *Will. primi, Lamb.*
fol. 170.

Volumus etiam & firmiter precipimus & Concedimus, ut omnes liberi homines totius Monarchia Regni nostri, habeant & teneant terras suas bene & in pace ab omni Exactione injusta & ab omni Tallagio, &c. as in the *English*. What reason could there be, that you should call the *liberi homines*, the Freemen in this Law mentioned, *English*? Certainly none; but that you intend to impose upon your Readers. They are in this Answer clearly proved to be *Normans*, f. 299. where also may be seen the Services they were to perform.

Dugdales Origin. Juridic.
f. 16.

THere being mention made before of Illustrious Persons, or the chief of the Kingdom, it is said, *Hi autem illo Tempore, a Regia potestate, diversis provinciis, & urbibus, ad universalem Synodum pro causis cujuslibet Christianae Ecclesiae audiendis & tractandis, Convocati.* In the Translation of this you have foisted in the word *Burroughs*, to serve your purpose the better, it not being to be found in the Original, nor in your own Citation of this place, p. 109.

Answer to Mr. Petyt's Rights of the Commons Asserted,
P. 43.

THe truth is, the greatest part of the ancient Law under our ancient Kings after

A as any of his noble Progenitors Kings of *England*; Then it naturally follows, that he was to be as free and absolute as *William* the Conqueror. And then what is the Conclusion and Result, but that the *English* were neither to have Estates nor Fortunes left them: and therefore it could be no great matter to them, by what Law, Right, or Property Men held their Estates. And for the last words, he cites the Answer to Mr. *Petyt's Rights of the Commons Asserted*, p. 43. and would make that Author guilty of an odious and vile assertion, by leaving out one little word, which carries the sense of the whole Sentence.

B the Conquest, was the Feudal Law, brought hither by the *Normans*, under whom it was more rigidly exacted and observed than in the *Saxon* times, and that by and upon only the *Normans* themselves. For the *English* had neither Estates or Fortunes left, and therefore it could be no great Matter to them by what Law, Right, or Property other Men held their Estates. Here you very disingenuously left out the word (other) before Men, which makes the sense of the words quite different from what you make it, and with the addition of that word, hath a very fair and just meaning, which cannot be perverted.

C Thus at your Request, I have shewn in many Instances, how partial you have been in your Citations, taking some fragments, or parcels of Sentences, or sometimes a short Sentence you thought might serve your turn, and always leaving what you could not but know would have destroyed your Notion and Argument; And also have evinced both here and throughout the Answer, how unjust or ignorant you have been in the Explication and Application of what you have cited, rendring and interpreting the words in several places, rather according to their sound, than true meaning. And therefore I expect you should, to make good your Engagement, discover your self, confess your Ignorance, Errors, and Mistakes, and declare how you have been misled into them: who set you on work, and the true design for which you wrote; and more especially, by what means, and for what end and reason you did so much abuse and corrupt the Record, by your false interpretation, application, and leaving unrecited part of it, 15 *Rich. 2. Rot. Parl. n. 13.* as I have shewn in my Answer to the Argument grounded upon it, in your *Appendix*, p. 161. Certainly you would never have alledged this Record, and many other Authorities you produce in this Book, had you thought any Man would have examined them, or endeavoured by Authentick History of those times to discover the true meaning of them. When you write again, cite fairly the Records and Authorities you make use of, and endeavour to find out the genuin and just sense of them, and abuse not, nor trouble the World by corrupting them with false, partial, forced, factious, and opinionative Glosses: and then reply to this Answer if you can, and write what you can on these Subjects, or any Man else.

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And so I will end this Answer as you do your Argument and *Appendix*, and in your own words, That my only [8.] design is the detection of Error, and Establishment of Truth to future Generations, and not to have the World imposed upon by the Tricks, Im-

(8.) *Append.*
p. 164. and
the last.

postures, and Artifices, which too many have been guilty of, either to promote their own particular gain and Interest, (to which such Men care not what they sacrifice) or upon a far worse and more grievous Consideration, to bring the whole Nation into dividing Parties and Factions; and thus by embroils and entanglements, to throw them at last into fatal Convulsions, to the destruction both of Prince and People. And that these have been the Effects of your Popular Scriblings, Partial Citations, designing Concealments of some, and wilful misapplication of other parts of History and Records, it is clearer than the Sun at Noon-day; and not without suspicion, that the misinterpreted, and misapplied Scraps, and Shreds in one of these Popular, Seditious Pieces, designed to overturn the Government, and published on purpose to usher in Anarchy and Confusion, written by an Inner Templer, and Dedicated _____ with other such like Stuff the Author might furnish him, did mightily contribute to the Seduction, and Rebellious and Traiterous Practises of a great Man, who laid violent hands upon himself, to prevent the Hand and Stroke of Justice.

And like to this Piece, are *Jani Anglorum facies Nova*, *Jus Anglorum ab Antiquo*, Reflections upon *Antidotum Britannicum*, *Londinum Triumphans*, &c. with many others of the same Batch. All written and tim'd, with design to promote Sedition, and in expectation of Rebellion, and the destruction of the Established Government.

A
True and Exact
HISTORY
OF THE
SUCCESSION
OF THE
Crown of England,

Collected out of *RECORDS* and the Best
HISTORIANS.

Written at first for the Information of such as
were Deluded and Seduced by the Pamphlet
called, *The Brief History of the Succession*, &c.
pretended to have been written for the satisfac-
tion of the Earl of *H*.

The Second Edition much enlarged.

Together with Reflections upon the Bill of Exclu-
sion, and a full and satisfactory Answer to Mr. *Hunt's* Ar-
gument in his Post-script about the *Succession* of the Chil-
dren of *Robert* the Second, King of Scotland, by *Elizabeth*
Mure his pretended Concubine, and *Eufame* his Wife.

In the *SAVOY*,

Printed by *T. N.* for *Samuel Lowndes* over against *Exceter-*
Exchange in the *Strand*, 1684.

THE HISTORY

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OF THE

SUCCESSION

TO THE

Crown of England

Collected out of the most authentic and approved

Writings and Histories

By JOHN RICHARDSON, Esq.

Author of the History of the

Succession to the Crown of Great Britain

and the History of the

Succession to the Crown of France

in two Volumes

Vol. I.

London, Printed by J. DODD, in Pall-mall

1719.

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A

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B
CROWN, &c.

THe first that I have seen and noted, that directly asserted the Peoples or Subjects right and power to depose and punish their Kings, was *Johannes de Parisiis*, a [1.] Frier of the Order of Preachers, and a Schoolman, who flourished in the year 1296. and lived in *Paris* at the time of Discord between *Philip the Fair*, King of *France*, and Pope *Boniface the Eighth*: He wrote a Book *de potestate Regia & Papali*, Printed at *Basil* without Date, in which Book in the fourteenth Chapter he splits an Hair between the King and Pope, who maintained he had both [2.] Spiritual and Temporal Authority over the King. *De potestate vero Correctionis seu censuræ Ecclesiasticæ sciendum, quod non est nisi spiritalis directæ, quia nullam penam in foro Exteriori potest imponere nisi spiritualem, nisi sub conditione & per accidens; non enim potest Judex Ecclesiasticus ratione delicti, imponere penam Corporalem, vel pecuniariam, sicut facit Judex Secularis, sed solum si ipse velit eam acceptare. Si non vult eam acceptare, Compellet eum Judex Ecclesiasticus, per Excommunicationem, vel aliam penam Spiritualem, quæ est ultima quam potest inferre, nec ultra potest aliquid facere, nisi dico per accidens, quia si esset Hereticus, & incorrigibilis, & Contemptor Ecclesiæ, posset Papa aliquid facere in populo, unde pravaretur ille seculari honore, & Deponatur a populo. Et hoc faceret Papa in Crimine Ecclesiastico, Cujus Cognitio pertinet ad ipsum, Excommunicando, scilicet omnes, qui ei ut Domino obedirent; & sic populus ipsum deponeret & per accidens. Sic etiam è Converso, si Papa esset Criminosus, & scandalizaret Ecclesiam, & incorrigibilis esset, Princeps posset ipsum Excommunicare indirecte, & deponere ipsum per accidens, movendo scilicet ipsum per se, & per Cardinales: Et si quidem Papa quiescere nollit, posset aliquid facere in populo, unde Compelleretur cedere, vel deponeretur a Populo, quia Imperator posset sub Hypotheca rerum, vel pena Corporum inhibere omnibus & singulis, ut nullus ei obediret, vel serviret ut Pape, & hoc quidem potest uterque in Alterum.* The meaning of all which Scholastick, uncouth Discourse, is, That the Pope or Prince indirectly, and by a side Wind, and with the help of the People, may in some cases Depose each other; For this Assertion

[1.] *Bellarmin. de Scriptor. Ecclesiasticis ab An. 1400. ad 1300.* Some ancient Schoolmens Opinion about the Peoples Power to Depose Kings.
[2.] *De Serres History of France. f. 200. A.*

Kings and Popes may depose each other by help of the People, as saith *Joh. de Parisiis.*

B. Marmin in the place forecited, says he was more kind and inclinable to the King than to the Pope.

But a little further in this Chapter he is more exprefs, for the Power of the Barons and Peers of *France*, than he is in either of these Cafes. *Ubi vero Rex peccat in Temporalibus, quorum cognitio ad Ecclesiasticum non pertinet, Tunc non habet ipsum Corrigere primo, sed Barones & Pares de Regno, qui si non possunt vel non audent, possunt invocare auxilium Ecclesie, &c.* But where the King offends in Temporals or in Government, the Pope or Ecclesiastick hath no power to Correct him, but the Barons or Peers of the Realm; and if they either dare not or cannot meddle with him, they may then crave assistance of the Church. And for this Reason, after he hath told the Story how *Childeric* King of *France* was Deposed in the fifteenth Chapter, he says *Zacharias* the Pope did not depose him, but the Barons did it, and set up *Pipin* by his Consent, which they might have done without it.

Pipin was an Usurper, and *Childeric* was Deposed by his own Contrivance, notwithstanding he was set up by the Assembly of Estates, who that they might not lay aside the Fundamental Law of State in Succession, declared him first to be Heir to *Clovis* the Great, *De Serres*, f. 46, 47, and 50.

* *Ludovicus Bavarus*, as he is termed in History An Account of the Deposing *Childeric* King of *France*.

The next is *Mirsilius Patavinus* in his Tract *De Translatione Imperii*, published in the time of the Emperor * *Lewis* of *Bavaria*, who began his Reign *Anno Domini* 1314. Printed at the same time and place with the former Discourse. In the sixth Chapter, f. 230. B. he give an Account of the last-mentioned Deposition of *Childeric*, &c. *Pipinus Caroli Martelli filius in rebus Bellicis Strenuus, Catholicus, &c.* *Pipin* the Son of *Charles Martell*, stout in War, Catholick, and famous for his honest Conversation, according to the Writings of Clerks, who endeavour to usurp to themselves Imperial Authority, was by Pope *Zachary* of a *Major-Domus*, made King of *France*; because (as they say) he Deposed *Childeric*, not so much for his Impiety, as his disability to Govern; and substituted *Pipin* in his place, and absolved all the *Frenchmen* from their Oath of Fidelity to *Childeric*. But *Aimonius* in the Acts of the *French*, reports more truly, That *Pipin* was chosen King, and set up by the Nobility, (*per Regni Proceres*) the great Men of the Kingdom, and that he was Anointed by *Boniface* Arch-Bishop of *Rhemes*, (but truly of *Ments*) at *Soissons* in the Monastery of *St. Modard*. Whence 'tis clear *Zachary* did not Depose him, but (as some say) consented to those that did Depose him. *Nam talis Depositio Regis, & alterius Institutio proper rationabilem Causam, non ad Episcopum tantummodo, neque ad Clericum aliquem, aut Clericorum Collegium pertinet, sed ad Universitatem Civium inhabitantium regionem, vel Nobilitatem, vel ipsorum Valentiorum Multitudinem.* For such Deposing of a King, and setting up of another, pertains not to a Bishop alone, nor to any Clerk, or Colledge of Clerks, (he means the Cardinals, or such as were afterward called so) but to the University of the Inhabitants of the Country, or the Nobles, or the prevailing part of them. Thus far *Patavinus*.

Yet for all what is here said, and the great Character *John de Serres* gives of *Pipin*, and the low Esteem he hath of *Childeric*, (who was an easie weak Man) it appears by his Report of this matter, and may easily be [3.] made out, (though he is a great Friend to *Pipin*, and approves of the Action) That *Pipin* was an Usurper, and was made King by his own Contrivance, and Assistance of

of the Pope, moved with hopes of Aid from him against *Aistulph* King of the *Lombards*, his great Enemy and Oppressor. And when the [4.] Estates of *France* or Parliament had resolved to lay aside *Childeric* and set up *Pipin*, yet they did it with great care, that the [5.] Fundamental Law of State (which was that of * Hereditary Succession by Blood) should not be directly infringed by this new Election, and therefore they bring him from the Race of great *Clovis*, (Grandchild to *Merovee*, who gave the name of *Merovingiens* to the first Race of *French* Kings, whereof this *Chilperic* was the last) of whom they said he should be acknowledged next Heir, seeing he approached nearest to him in Vertue.

[4.] *Ibidem*, f. 60. A.

[5.] *Ibidem*, f. 3. B. C.
* Where this Fundamental Law is to be found.

About 200 years after [6.] *Jacob Almain*, a Doctor of Divinity, and Schoolman, in a Tract *de Potestate Ecclesiastica*, Printed at *Paris* without Date, in an old Character, Chap. 1. *Tit. de Divisione potestatis, &c.* Of the division of Power into Ecclesiastick and Secular, he lays down this Definition of Secular or Lay-Power. *Potestas laica sive secularis, est potestas à populo ex Successione hereditaria, vel Electione alicui, vel aliquibus tradita regulariter, ad Edificationem Communitatis, quantum ad res civiles, secundum leges civiles, pro consecutione habitationis pacificæ.* Lay or Secular Power is regularly given by the People to one or some, to be enjoyed by Hereditary Succession, or by Election, for the benefit of the Community, as to Civil Matters, according to Civil Laws, for the obtaining and preservation of Peace, *Ibid. f. 1. a. col. 2.* Having laid down this Foundation in another small Tract, *de Authoritate Ecclesiæ, Cap. 1. Tit. de Origine, &c.* Of the Origin of Civil Jurisdiction; He builds upon it this Assertion, That, *Tota Communitas, &c.* the whole Community hath power over the Prince Constituted by it, by which he may be Deposed, if he rules not to the advantage, but destruction of the Government, otherwise it should not have a sufficient power to preserve it self; and this Power the Community of *France* used when they Deposed their King, not so much for any Crime, as for that he was unable to Govern, *Ibid. f. 46. b. col. 1. Corollar. 3.* This was the case of *Childeric* again, as appears in the next subsequent words of *Almain*: and this Case is commonly the first Instance and Example in all the Writings of Schoolmen, Friers, and Jesuits, Calvinists, Puritans, Dissenters, and Republicans, for the Power of the People over their Kings, Princes, or Superiors. This Author says of himself at the end of the last Tract, That he wrote it in the year 1512.

[6.] *Bellarm. ut supra. Ab anno 1400, ad 1500.*

From these Schoolmen we pass on to *John Calvin*, who was born at *Noyon* in *Picardy*, and from his youth had an inclination to the Study of Divinity, and in his first entrance upon it, liked best the Reformed; and finding no encouragement in *France*, resolved to remove himself either to *Strasbourg* or *Basil*: From the later it was, that he writes and directs the [7.] Preface to his *Institutions of Christian Religion*, to *Francis* the First King of *France*, a great favourer of Learning and Learned Men, Aug. 1. 1536. in which he tells the King, That by lying Calumnies those of his Persuasion were traduced with Designs of wresting Kings Scepters out of their Hands, subverting Government, perturbing the Peace and Quiet of the People, and turning all things topsie turvy; which imputations

Calvins Opinion of the Subjects power to Depose Kings.

[7.] See the Preface in finz.

[8.] *Heylins*
History of
Presbyt. f. 5.

if they were in the least degree true, the whole World might justly judge them worthy of a thousand Fires and Gallows, and therefore craves his Protection for their sublime Doctrine, which was above all the Glory of the World, and ought to stand invincible above all Power, because it was not theirs, but the Doctrine of the Living God, and his Christ; and after sufficiently reviling the then present Ecclesiasticks, Church, and Government of *France* for their very severe usage of them, he denies their enmity to Kings, and endeavours to persuade him to read with attention that Preface, and hear their Cause, and in great probability it was to please and wheedle this King, to whom he directed the Preface, that in the twentieth and last Chapter of the Book of this first Edition, *Seet.* 21, 22, 23, 24, 25, 26, 27, 28, 29. he laid down the Doctrine of Obedience, and the unlawfulness of Resistance in what case soever, with as much truth and clearness as perhaps any Man could do it. But when, as in this very Month of *August*, he was called to *Geneva* by the importunity of *Farell*, and there [8.] made Divinity Reader, in the thirtieth Section and the last but one, he changeth his note, and destroys all his Orthodox Assertions concerning Obedience to, and the unlawfulness of the Resistance of Kings, or Supream Magistrates, and turns it off thus with a *de privatis hominibus semper loquor*; That all what he had said of Obedience and Non-Resistance, was only said and meant of private Men. For before he came at *Geneva* several years, *Viret* and *Farell*, two Preachers that had imbibed the Doctrine of *Zuinglius*, and were addicted to his method of Reformation in *Switzerland*, dealt first with the Bishop to abandon the Pope, and Reform according to the Examples of *Zurich*, *Bern*, &c. but finding him inflexible, they practice with the People, and some under-Officers of the City, and in a Popular Tumult expel the Bishop (who was also Temporal Prince) with his Clergy out of the City, never to return more, and set up a Popular Government by a Common Council of 200, and four Annual Syndicks, to be chosen out of them, without the consent and against the good liking of their immediate Prince the Bishop, and their Supream the Duke of *Savoy*.

These Rebellious Proceedings *Calvin* had allowed, as he says, in his Letter to Cardinal *Sadolet*, (*Quæ a Vireto & Farellio facta sunt, meo suffragio Comprobavi*) so that he must justify them, and therefore when he had declared, that what he had said about Obedience, and Non-Resistance was only to be understood of private Men, he immediately goes on to defend *Viret* and *Farrells* unwarrantable, seditious, and turbulent Actions, in these words. *Nam si qui nunc sint Populares Magistratus ad moderandum Regum libidinem Constituti, quales olim erant, qui Lacedæmoniis Regibus oppositi erant, Ephori: aut Romanis Consulibus, Tribuni plebis: aut Atheniensium senatui, Demarchi: & qua etiam forte potestate, ut nunc res habet, funguntur in singulis Regnis tres Ordines, cum primarios Conventus peragunt; adeo illos ferocienti Regum licentie, pro officio intercedere non veto, ut si Regibus impotenter Grassantibus, & humili plebecula insultantibus Conniवेant, eorum Dissimulationem nefaria perfidia non carere, affirmem: Quia populi Libertatem, cujus se Dei Ordinatione, Tutores positos norunt, fraudulenter produnt.* For if there now be any Popular Magistrates Constituted to restrain the Licentiousness

His second Edition of this Book, as appears by the Epistle to the Reader, was at *Strasbourg* 1539. when he was Banished from *Geneva*, and yet he retained this beloved passage.

of Kings, such as of old were set up against the Kings of *Sparta*, the Tribunes of the People against the *Roman* Consuls, and the *Demarchi* against the *Athenian* Senate, and with such power peradventure also, as things now are, the Three Estates in every Kingdom are endowed with, in their solemn and principal Conventions. I am so far from prohibiting such, to repress the unruliness of Exorbitant Kings according to their Office, that I affirm them guilty of a nefarious and perfidious Dissimulation, when they connive at Kings making havock upon, and insulting over the low and ordinary People, because they fraudulently betray the Liberty of the People, of which they know themselves Guardians by the Ordinance of God.

Thus *Calvin* laid the Foundation of Rebellion cunningly upon Conditionals, as it were, and suppositions; Since which time most Presbyterians, Puritans, and Dissenters have turned his Conjunction Conditional into an Illative, his Adverb of doubting into an Affirmative, and his permissive (*non veto*) into a Verb of the Imperative Mood, in their Discourses against Tyrants, (as they call them) but of their own making, in their Books of the Rights of Magistrates, and Duties of Subjects, of Secular Government, and Ecclesiastick Discipline; but never were wretched Men more miserably abused and deceived than by *Calvin*, nor never any Mans Ignorance in History more clearly discovered than his, in laying down this Historical Foundation of the *Ephori*, *Tribunes*, and *Demarchi*, and rearing upon it the Structure of Sedition and Rebellion.

Calvin mistaken in the Office and Employment of the *Ephori*, *Tribunes*, and *Demarchi*.

For the *Ephori* were at first chosen by the Kings of *Lacedemon* themselves to curb the Senate, which began to incroach upon Regal Power, to be subservient to them, to sit in Judgment for them, and discharge such Offices as the Kings pleased to trust them with in their times of absence. And Secondly, The Tribunes were first instituted to no other purpose, but to preserve the People from unjust Oppression, and that their opposition to the Consuls was accounted always to be against the first grounds, and a breach of the Laws of their Institution: and were at first chosen in *Centuriatis Comitibus*, where the *Patricii* or Noblemen had the greatest power. Both these sorts of Officers in process of time became Popular and Seditious, and studied how to humour, please, and serve the People, that they might serve them; and at length projected, and obtained their Elections by the Rabble, by whose assistance they committed the greatest Insolencies, and acts of Injustice in *Sparta* and *Rome* that have been heard of in the most Wild, Rude, and Barbarous Democracy or Anarchy, which in the end was their ruine and destruction in both places. And as for the *Demarchi*, they neither by Institution or Usurpation did oppose the Senate of *Athens* in behalf of the People, but executed their Commands upon the People, as their Duty bound them; Nor have the Three Estates of every Kingdom power to control the Actions of their Prince, as *Calvin* suggests; All which things are learnedly and solidly proved and demonstrated against him by Dr. *Heylin*, in his *Stumbling Stone of Disobedience and Rebellion*, Chap. 2, 3, 4, and 6.

From

John Calvin.

From *John Calvin* we will proceed with his Issue and Admirers. *Christopher Goodman* one of the Faction and Schism at *Francfort*, who removed from thence with *Whittingham* and *Knox* 1555. to the place of their Education *Geneva*, where he published a Treatise of Obedience, with the Approbation of the Divines of that City, Anno 1557. wherein he affirmeth, That if Magistrates transgress Gods Law themselves, and Command others to do the like, they lose that Honour and Obedience, which otherwise is due unto them, and ought no more to be taken for Magistrates, but to be Examined and punished as private Transgressors, (and the Judgment whether they Transgressed Gods Law or not, was always reserved to the Presbytery, Classis, Synod, or National Assembly.) A

Whittingham.

Whittingham in his Preface to this Book, says, That if Kings and Princes refused to reform Religion, the inferior Magistrates or People, by direction of the Ministry, might lawfully, and ought (if need required) even by Force and Arms, to reform it themselves. B

Knox.

[9.] In dangerous Positions Printed at London by John Wolfe, Anno Domini 1593. p. 15.
[1.] Ibidem.

Knox. [9.] God hath appointed the Nobility to bridle the inordinate Appetites of Princes, and in so doing they cannot be accused as Resisters of Authority; in his History, p. 343.

It [1.] is the Duty of the Nobility to repress the rage and insolency of Princes; in his Appellation, f. 13. C

[2.] Ibidem.

Princes for just [2.] Causes may be deposed; in his History, p. 372.

[3.] Ibidem.

It is not [3.] Birthright only, nor Propinquity of Blood, that maketh a King lawfully to Reign above a People, professing Jesus Christ; *Knox* to *England* and *Scotland*, f. 77. D

[4.] Ibidem, p. 16.

If Princes be [4.] Tyrants against God and his Truth, their Subjects are freed from their Oaths of Obedience; in the same place, f. 78.

They will make themselves Judges whether any Worship be Idolatrous or not.

[5.] Exact Collect. p. 20.

In his Exhortation to *England*, Printed at *Geneva* 1559. p. 91, 92. Neither Power nor Liberty be permitted to any of what Estate, Degree, or Authority that ever they be, either to live without the Yoke of Discipline, by Gods Word Commanded, either yet to alter, to change, to disannul, or dissolve the least one jot in Religion, which from Gods Mouth thou hast received; But if Prince, King, or Emperor would Enterprize to disannul the same; that he be reputed Enemy to God, and therefore unworthy to Reign above his People; Yea, That the same Man or Men that go about to destroy Gods true Religion once Established, and to erect Idolatry, which God detesteth, be adjudged to Death according to Gods Commandment. Nothing so common as for the *Geneva* Men, and *Scotch* Presbyterians, to rail against the Church of *England*, as it was Established by Queen *Elizabeth*, as an Idolatrous Church; And our *English* Presbyterians charge the Church of *England* with Idolatry, in their Remonstrance of the State of the Kingdom, [5.] December 15. 1641. E F

Beza,

Beza, Anno Domini 1560. Printed his Confessions, wherein he says, [6.] That there are Vices inherent in the Persons of Princes, though they be lawfully Eſtabliſhed by Succeſſion or Election, viz. Ungodlineſs, Covetouſneſs, Ambition, Cruelty, Luxury, Lechery, and ſuch like Sins, which Tyrants delight in. What ſhall be done in this Caſe to theſe Princes? I anſwer, (ſaith he) That it belongeth to the Superior Powers, ſuch as are the ſeven Electors in the Empire; and the Stateſmen of the Kingdom almoſt in every Monarchy, to reſtrain the fury of Tyrants, which if they do not, they are Traytors to their Countries, and ſhall before the Lord give an account of their Treachery. This Man ſucceeded *Calvin* in his Office and Power at *Geneva*, and likewise followed him in his Principles and Poſitions, as may be noted, ſcattered up and down in his Writings.

Beza.
[6.] P. 216.

The *Scotch* [7.] Miniſters and Preachers allowed of this Doctrine and Opinion, who having notice, that the Queen had Maſs ſolemnized with more than ordinary Pomp and Ceremonies on *All-Saints* day 1561. they admoniſhed the Nobility of their Duty in their publick Congregations and Meetings, which was, to reduce the Queen to obedience of their Kirk Laws. And in a Diſcourſe in a private Houſe between the Noblemen and Miniſters, they affirmed peremptorily, and perſevered in their opinion, That the Noblemen might force her; but the Noblemen being the greater number, (and as *Buchanan* ſays) corrupted with Favour or Money, determined againſt the Miniſters.

[7.] *Buchan.*
Hiſt. Printed at *Utrecht*, 1668. p. 609.
The *Scotch* Preachers.

In the year 1582. Aug. 23. certain Noblemen of *Scotland* reſtrained and [8.] impriſoned King *James* at *Ruthven* five or ſix days, for the preſervation of his Perſon, and the perfecting of the Reformation of Religion, until they had removed from him ſuch Perſons as they thought fit, and obtained what they deſired.

[8.] *Spotsw.*
Hiſt. f. 320, 321, &c.
King *James* impriſoned at *Ruthven*.

On the Thirteenth of *October* following the General Aſſembly [9.] Ratifies this Rebellious Attempt and Surprize of the King, calling it only a Repair to the Kings Maſteſty, to ſeek Redreſs of the Diſorders fallen out in the Common-weath; and they Order all the Miniſters within the Realm, upon the firſt occaſion, publickly to declare to their Flocks, the peril wherein the Church of God, and true Religion, the Kings moſt Noble Perſon and Eſtate ſtood: with the Grounds that moved the ſaid Noblemen unto the late Action; Recommending the ſame to the Conſideration of all good Subjects, Exhorting them as they tender the Glory of God, and love the preſervation of the King and Country, faithfully to concur and join with the ſaid Noblemen in proſecuting the ſaid Grounds, to the full deliverance of the Church, and perfect Reformation of the Common-wealth, &c.

[9.] *Ibid.* f. 322, 323.
The Aſſembly Ratifies that Rebellion.

In the year 1583. the King being at Liberty, by [1.] Advice of his Privy Council, declares this Faſt Treason; and by Act [2.] of Parliament Convened on the Seventeenth of *December* that year, it was by univerſal Conſent Enacted, That this Surprize and Reſtraint of the King, perpetrated in *Auguſt* by gone a year, was a Crime *Leſa Maſteſtatis*, hainous in it ſelf, of dangerous ſequel, and moſt pernicious Example, &c.

[1.] *Ibidem*, f. 326.

[2.] *Ibidem*, f. 329.

In

De jure Magistratum, &c.

[3.] Heyl.
Hist. of Presb.
f. 75.
[4.] P. 49, 50.

In the year 1580. both these Books came forth in one Volume, but not say where Printed. The Author. Dangerous Positions, cites Beza as Author of the first.

[5.] Heylin,
ut supra.

Buchanan, *De Jure Regni, &c.*
Printed at
Utrecht 1668.

* Spotswoods
Hist. f. 325.

Buchanans
Opinions
concerning
Kings.

In the year 1576. comes forth a Book with this Title, *De jure Magistratus in subditos, & de officio subditorum in Magistratus*; Of the Right of Magistrates over their Subjects, and of the Duty of Subjects towards their Magistrates. In the Title Page 'tis said to be Translated out of French into Latin, and to have been Printed, *apud Johannem Mareſcallum Lugdunensem*, by John Marshall of Lyons. A Piece so wicked, and so destructive of Peace and Human Society, that neither Papists nor Puritans would own it; [3.] The first said, *Hottoman* a French Civilian and a Calvinist was the Author of it; Dr. Reynolds in the [4.] Conference at Hampton-Court, would make *Ficleny* a Romish Priest Author of it; but the then Bishop of London affirmed it to be the work of a Disciplinarian, by which word a Presbyterian was always understood.

The next year following, as appears by the Epistle, dated Jan. 1. from Soloturn in Switzerland 1577. under the name of *Stephanus Junius Brutus*, was published a Book with this Title, *Vindicia contra Tyrannos*, The Assertion of the Liberty of the People against Tyrants. Both these Pieces are of the same Argument and Tendency; and it was from them that *Julian the Apostate* had most of his Hints, and much of the Materials, with which he built up his Doctrine of Resistance; and if ever he Replies to the Answerers of him, the Foundation and many chief particulars of his Replication will be found in them also. It was generally believed to have been written by Beza under these feigned [5.] names.

In the year 1579. George Buchanan, Tutor to King James, a violent Presbyterian, published a Treatise, the Title whereof is, *De Jure Regni apud Scotos*; The Right of the Scottish Kings. But in the Dedication to King James on the Tenth of January in the year aforesaid, he says, That in this Dialogue he endeavoured to explain what Right and Power there was amongst Kings and Subjects themselves from the beginning. And it was written to justify the Proceedings of the Noblemen against Queen Mary in their Reformation of the Kingdom of Scotland.

1. In this Treatise (which is but an Abstract of *Junius Brutus* his *Vindicia*, &c. and of the Author *De jure Magistratum, &c.* put into a clearer method) he asserts, That the People have right to dispose of the Kingdom to whom they please, p. 11.

2. That Laws were invented by the People to restrain Kings, p. 14.

3. The People that give Empire, ought to appoint the *modus* or manner of that Empire, how the King shall Reign, p. 21.

4. Yet not the Multitude or Rabble, but certain select People of every Order, are to prepare the Design of the Kings Reign, and then propound it to the Judgment of the People, *Ibid.*

5. Princes that transgress the Laws are to be accounted as Wolves and Thieves, and such as come not under the fence of the Law are to be accounted Enemies to God and Man; and he that kills Wolves,

Wolves, and Noxious Animals, doth the *Publick* good Service, p. 36.

7. The *Scottish* Kings have all their Power from the People, and therefore they are above the King, and the Multitude hath the same Right over Kings, that they have over every one of the Multitude, p. 52. and may for just Causes be Deposed by the People, *Ibid.*

8. The Scripture Commands wicked Men should be destroyed without any exception of Degree or Order, and there is no more caution and respect to be shewed unto *Tyrants* than to private Men, p. 48.

9. The People are greater and more Excellent than the King, therefore when the King is judged by the People, the less is judged by the greater, p. 56.

10. If the Estimate of the People be taken, not from their number, but from their worthiness, not only the better part, but the greater part shall stand for Liberty, for safety, and for what is honest, p. 58. meaning hereby that the most worthy of the People (that is, those which the Presbyterians and Factious People shall esteem such) are the better and greater part, though not in number.

11. If a King doth not willingly submit, or cannot be forced to answer the Peoples Charge against him, he may be *killed*, and the People may raise War against him, and every private Man may kill him, p. 62.

12. An Usurper or Invader of Empire by force, if he Rules well, is to be obeyed, and not to be disturbed, or as he says, violated, p. 64.

13. Wicked Kings to be Excommunicated, as other wicked Men, and to be prohibited Human Society, that unless they Repent, they may perish as other wicked Men, by Hunger, Cold, and Nakedness, p. 65.

This last is said in answer to this Question; What is the Censure of the Church concerning Tyrants? *Ibid.*

This Book with his History after his death was Censured in Parliament 1584. n. 134. and such as had any of them were to deliver them to the Secretary of State, or his Deputies, within forty days, or were to pay 200 l. or be punished in their Persons.

Dudley Fenner in his *Sacra* [6.] *Theologia*, (Printed apud Eustathium Vignon, Anno Dom. 1586. with Cartwrights Epistle before it directed thus, *Ornatissimo & clarissimo fratri, & in Ministerio Collegæ, Domino Dudleio Fennero*) makes two sorts of Tyrants; one, *sine Titulo*, a meer Usurper without a Title; Another *in Exercitio*, in practice, who though he hath a lawful Title, doth not govern according to the Rule and Constitution of the Kingdom. The first, *Quisque privatus resistet*, Every private Man may resist; *etiam si po-*

The People will make themselves Judges of these just Causes, and must do so to accomplish their Designs. Here they will and must judge again who are Tyrants, that is, any King they please to call so.

This Book and his History Censured in Parliament.

Dudley Fenner. [6.] Lib. 5. Cap. 13. p. 80. b.

test e medio tollet, and if he can may cut his Throat ; And as for the second, *Hunc tollant vel pacifice, vel cum Bello, qui ea potestate donati sunt, ut Regni Ephori, vel omnium ordinum conventus publicus*, Those that have such Authority, as the Ephori of the Kingdom, and Assembly of Estates, may either by Tryal or open War take him off.

Tho. Cartwright.
[7.] P. 180.

The same Cartwright in his [7.] Reply to the Answer to his Seditious Admonition, says, it is true, we ought to be obedient to the Civil Magistrate which governeth the Church of God, in that Office which is committed unto him, and according to that Calling, but it must be remembred, that Civil Magistrates must govern it according to the Rules of God prescribed in his Word, and that as they are Nourishes, so they be Servants unto the Church, and as they Rule in the Church, so they must remember to subject themselves to the Church, to submit their Scepters, to throw down their Crowns before the Church ; yea, as the Prophet hath it, *Isaiah 49. 23. to lick the dust off the feet of the Church*.

Anno Domini
1590, 1591.
Coppinger,
Hacket, &c.

The Treasons and Conspiracies of Coppinger, Hacket, Arthington, Wiggington, &c. were projected for the setting up the Geneva Discipline, and Reformation according to that Platform ; and they were undertaken under pretence of an extraordinary call to it, and prosecuted (as they said) by the assistance and inspiration of the Holy Ghost ; They and their Complices were to kill some of the Privy Counsellors in the Star Chamber, to deprive the Queen or Depose her, to remove evil Counsellors from her, and set up Gods Holy Discipline ; All this is made out by their Letters, Examinations, and Correspondencies in the fourth * Book of *Dangerous Positions*, from Chapter the fourth to the fifteenth ; and 'tis very probable from the same, that the sober Godly Party, such as Cartwright, Charke, Travers, Egerton, Gardner, Cooper, Phillips, Sir Peter Wentworth, and Lancaster, did at least know of this Mad, Fanatical, Enthusiastick Design, notwithstanding they refused Conference with these Men, though happily not the very particulars of it ; for know they must by their Letters to them, that they were enaged upon some wild, extravagant, desperate Course, which they never revealed, but seemed therefore ready to take the advantage, if any happened, from the issue and success of it.

* Printed
1593.

This restless Faction, notwithstanding the fate of Coppinger and Hacket, of Barrowe and Greenwood afterwards, and then of Udal, and Penry, abated not in their Seditious Zeal for, and furious desires of the Discipline and Religion of Geneva, and a Reformation of the Church of England according to that Platform, which they all affirmed to be according to the pure Word of God, but disquieted the Queen with Petitions, made bold, and often Applications to Parliaments to that purpose, and endeavoured to seduce the People from their Obedience, by swarms of Seditious Libels, and Treasonable Books, and Pamphlets ; and during all the Reign of King James, they kept on the same course, both in England and Scotland, as likewise all the Reign of King Charles the First ; in the last ten years whereof, the Presbyterian Practices (who were then the main Body of the Dissenters) were an exact Comment upon the Texts and

and Assertions of their Brethren, both Domestick and Foreign, as well for the Deposition as Murthuring of Kings.

A The Arguments they use to maintain these wicked, and desperate, Treasonable; and Rebellious Courses, are clearly refuted and answered in the Replies and Duplies of the Ministers and Professors in *Aberdene*, concerning the Covenant, Printed by *Robert Young* the Kings Printer for *Scotland*, 1638. By *John Corbet* Minister of *Bonyl* in the Provostry of *Dunbarton*, in his Answer to the Information for Defensive Arms against the King, drawn up at *Edinburgh* by the common help and industry of the three Tables of the Rigid Covenanters, of the Nobility, Barons, Ministers, and Burgesses, with order they should be read to, and urged by all Ministers upon their Flocks, Printed at *Dublin* 1639. By Bishop *Usher* in his *Sacro-Sancta Regum Majestas*, Printed at *Oxford* in Quarto, 1644. and Re-printed in Octavo at *London*, 1680. and in Bishop *Sanderasons* Lecture upon the famed Law and Sentence, *Salus populi Suprema Rex Esto*. Let the safety and good of the People be the supream Law.

C Their Brethren the Jesuits, and many other *Romish* Divines hold the same Opinions, concerning the Resisting, Deposing, and Murthuring of Kings and Supream Magistrates, and use the same Arguments for proof of them; and therefore lest the Presbyterians or Disciplinarians should take exceptions at me, for so great an omission, and for being partial, I shall mention some few of their great numbers.

D *Dominicus Soto*, of the Order of the Preachers, or a *Dominican* Frier, Professor of Divinity at *Salamanca*, and the Kings Confessor, in his Book *De Justitia*, Printed there *Anno Domini* 1556. lib. 5. artic. 3. f. 389. after he had determined it was lawful, for any private Man to kill an Usurper or Tyrant without Title, he says, *Atqui in secundo casu, &c.* But in the second Case, (meaning that of a lawful Prince, but Tyrant in Practice) the common Opinion is, No Man may kill him privately, The reason is, because he hath Right to the Kingdom, he is not to be deprived of it, but by publick Sentence, that he may be heard what he can say for himself; but Judgment being pronounced against him, any Man may be his Executioner.

Dominicus Soto.

E *Robert Bellarmin* a Jesuit and Cardinal, *Tom. 1. de Concil. lib. 2. cap. 19. f. 1256. col. 2. A.* Printed at *Ingolstadt* 1586. hath this Passage, *Si Rex degeneret, &c.* If a King degenerates into a Tyrant, although he be Head of the Kingdom, yet he may be Deposed by the People, and another may be chosen. And in his Treatise *De Laicis*, his Opinion is, That, *Singulae species Regiminis sunt de Jure gentium, &c.* the kinds of Government are by the Right of Nations, not by the Law of Nature, for it depends upon the Consent of the People to set over themselves a King, Consuls, or other Magistrates; and if there be a Lawful Cause (of which they will be Judges themselves) the Multitude may change a Kingdom into an Aristocracy or Democracy, and so on the contrary, *De Laicis, lib. 3. c. 6. Tom. 1. f. 1774. Col. 1. B.*

Cardinal Bellarmin.

Franciscus Fe-
wardentius.

Franciscus Fevardentius, a Frier Minor, Doctor of Divinity, and Professor of the same at Paris, in his Comment upon the Book of *Hist.*, Printed at Colon 1595. p. 86, 87. hath this Assertion; *Conventus legitimus Ordinum totius Regni, &c.* A Lawful Convention of the States of the Kingdom, which consists of Ecclesiasticks, Nobles, and Select Men of the People, when as they represent the Majesty, Power, and Face of the whole Kingdom, as a general Council of Bishops do Represent the whole Church, may Depose a pernicious King, a Tyrant, and an Enemy to Religion and the People, (of which things they will be judges) and set up another in his place; and in p. 90, &c. reckons up twelve things for which he may be Deposed: Heresie, Schism, Study, Use, or Approbation of the Magick Art, Perjury, permission of Assassins, Simony, Sacrilege, violent strikeing of a Cardinal, violating of the publick Faith, Dissipation and wasting of the Publick Treasure, publick Tyranny, and for changing the Apostolick and Catholick Doctrine, &c.

Suarez.

Suarez another Jesuit says thus, *Potestas deponendi Regem potest esse in ipsa Republica, vel in summo Pontifice; &c.* The power of Deposing Kings, may be either in the Commonwealth it self, or in the Pope; In the Commonwealth alone for its necessary Defence and Conservation; and therefore if a Lawful King governs Tyrannically, and the Kingdom have no other remedy, but to expel and depose their King, the whole Commonwealth, by the Common Council of the Cities, and Nobles, may Depose him, *Defens. fid. Cathol. lib. 3. c. 3. Sect. 3. Tom. 1. fol. 415. col. 2.* Printed at Ments 1618.

And in another place he holds forth this Doctrine, *Postquam Rex legitime Depositus est, &c.* After a King is lawfully Deposed, then he is neither King nor Prince; and if therefore he endeavours to keep the Kingdom by force, then he is an Usurper; because not a Lawful King, having no true Title to the Crown; This is declared more fully in an Heretical King, for presently by Heresie he is in a manner deprived of his Dominion, and the Propriety of his Kingdom; after Sentence pronounced he is altogether deprived of his Kingdom, so as he cannot possess it by any just Title, and therefore he may be used as a Tyrant, and consequently may be killed by any private Man, *Ibid. lib. 6. c. 4. Sect. 14, 18.*

Gulielmus
Estius.

William Estius or Esty Doctor in Divinity, chief Professor thereof, and Chancellor of the University of Doway, delivers his Opinion in the following words; *Proceribus & Populo alienjus Regni, &c.* The Nobility and People of some Kingdom may lawfully resist their Superior, unjustly oppressing his Subjects; The reason seems to be, for that there doth reside in the Nobility and People a publick Authority, by which they may vindicate themselves from Tyranny, and choose a Lawful Prince, and so deprive him of Dominion and Empire if there be cause for it; But it is not lawful for a private Person by force to resist his Superior, although a Tyrant, *Multo minus de medio tollere*, much less to kill him, In his Comment upon the four Books of Sentences, *Lib. 2. f. 397. Col. 2. D. E.* Printed at Paris 1662. *cum approbatione Doctorum & privilegio Regis*; with the Approbation of the Doctors of the Faculty, and Priviledge of the King.

This is directly the Doctrine of John Calvin, and the Presbyterians.

Leonard

A Leonard Lessius a Jesuit, and a Professor of Divinity at Lovain, is of the same Opinion in his Book *De Justitia & Jure*, Printed at Lovain 1606. *Si tantum excrescat Tyrannus, &c.* If a Lawful Prince becomes so much a Tyrant as he is intolerable, and there remains no other Remedy, first he is to be Deposed by the Commonwealth, or Parliament, or any other having Authority, and declared an Enemy, and then he ceasing to be Prince, any thing may be attempted against his Person, *Ibid. lib. 2. c. 9. Disput. 4. Sect. 12.*

Leonardus
Lessius.

B Petrus de Ledesma a Dominican Frier, and Professor of Divinity at Salamanca, and died 1616. In his Book of *Moral Theology*, Tract. 8. cap. 18. p. 511. Printed at Tournay 1637. declares himself against private killing of Kings, and cites Cajetan and Thomas for that Opinion; but if they grow Tyrants, (if it be not easie or convenient for the People to procure the Popes Authority) *poterit populus Conventum agere, &c.* the People may call a Meeting of the States, or a Parliament, and Depose such a King, and if need be, take away his Life.

C Lodowic or Lewis Molina, a Jesuit, and Professor of Divinity at Eborac or Evora, an University in Portugal, in his Discourse *De Justitia*, Tom. 1. Printed at Ments 1616. is of the same Judgment, Col. 143. n. 16. *Non pertinet ad summum Pontificem Reges creare, & deponere, sed id pertinet ad Respublicas ipsas, Quarum est sibi Reges constituere, sic etiam est eos deponere, &c.* It belongs not to the Pope to Create Kings, or Depose them, that belongs to Commonwealths, who as they may Constitute to themselves Kings, so also they may Depose them, *postulante id recta ratione, occurrenteque justa & urgente causa*, upon any just and urgent Cause, right reason requiring it; which will never be wanting, according to the Judgment of the People.

Ludovicus
Molina.

D Adam Tanner a Jesuit, and Professor of Divinity in the University of Ingolstadt, in his third Tome of *Scholastick Theology* there Printed 1627. *Disput. 4. Quest. 8. Dub. 3. n. 32, 33. col. 1236, 1237.* concurs with his Brethren, and gives his Reason for it, *Ratio est, Quia Respublica, &c.* the Reason is, That as the Commonwealth gave the Prince his Power, so they may take it away again, because the Commonwealth hath power of providing for themselves a Lawful Head, and such an one he is not, that from a Shepherd of the People, degenerates into a Wolfe.

Adam. Tan-
nerus.

E John Mariana a Spanish Jesuit, in his Book *De Rege, & Regis Institutione*, Printed at Ments 1605. after having highly extolled the Fact of Jacob Clement, the Dominican Frier that Murthered Henry the Third of France, *Lib. 1. c. 6.* hath this passage, p. 57. *Certe à Republica unde ortum habet Regia potestas; rebus exigentibus, Regem in Jus vocari posse, &c.* Certainly the Commonwealth from whence Royal Power had its beginning, may call Kings to an Account upon urgent occasions, and if he refuseth to amend, may Depose him; for it never so transferred the Rights of Power to a Prince, but that it reserved a greater Power to it-self, p. 58. *Qui vi & armis Rempublicam occupat, &c.* He that with Force and Arms seileth a Commonwealth, and hath no other Title, doth truly and properly

John Ma-
riana.

properly bear the name of Tyrant, may be destroyed by any one, p. 59. *Nam si Princeps populi Consensu aut Jure hereditario, &c.* For if Princes be Elective or Hereditary their Vices and Lusts are to be born withal, until they neglect the Laws of Modesty and Honesty, to which they are bound; but if they harass the Commonwealth, &c. then he propounds the degrees by which they are to be proceeded against. *Monendus inprimis Princeps erit, atque ad sanitatem reducendus, &c.* A Prince is first to be admonished, and brought to amendment, if he yields, gives satisfaction to the Commonwealth, and corrects the Vices of his former Life, he was to be resisted, and no other more severe means were to be tried; if he refused to receive Advice, and there was no hope of amendment, then Sentence may be pronounced against him, and he may be put from his Government; and because War must necessarily follow, the Commonwealth may consult about maintaining it, may take Arms, and Tax the People towards the Charge of it; and if the matter will bear it, and the Commonwealth can no otherwise defend it self, may kill the Prince, being declared a publick Enemy, p. 60. *Eademque facultas esto cuicunque privato, &c.* and every private Man may do it that hath thrown away all hopes of impunity, and hath the courage to strike in, and rescue the Commonwealth. But what if the opportunity or power of publick meeting be taken away from the People, as it may often happen? *Par profecto mea sententia, judicium erit, &c.* in his Opinion there shall be the same Judgment, as when a Commonwealth is oppressed with Tyranny; for though the occasion of Convening the People be taken away, yet their will of destroying Tyranny remains, and he that favouring those publick Wishes shall attempt to kill him, *handquaquam inique eum fecisse existimabo*, I shall think he did it not wickedly. *Neque periculum est ut multi eo exemplo in Principum vitam sevant, quasi Tyranni sint.* Nor is there danger that many may attempt the Lives of Princes, as if they were Tyrants; *Neque id quidem in cujusquam privati arbitrio ponimus*, neither do we place it in the pleasure of every private Man to judge who is a Tyrant, *non multorum*, nor in the opinion of many, *nisi publica vox populi adsit, viri eruditi & graves in Consilium adhibeantur*, unless it be the publick Vogue of the People, approved by Grave and Learned Men. Thus far *Mariana*. The People that do thus resist Princes, when they are once in Arms will be their own Judges, and whatever they say or publish, shall and must be, *Vox Populi*, the Vogue, and sense too of the People, though they are not the tenth Man, (as will presently appear in the Case and Murder of King *Charles* the First) nor will they ever want Grave and Learned Men, (at least in their own opinions) such as Presbyterian Divines in the Reformed Countries, Friars or Jesuits in the Countries which profess the *Romish* Religion, to advise and direct them, who, when, and what Princes are to be declared Tyrants, and what Rights and Royalties they are to claim as Fundamentally belonging to themselves.

Or thus, If not the publick Voice of the People, Learned and Grave Men may be consulted with.

James Keller. Dispersed through his Treatise.

This Treatise of *Mariana* was Censured and burnt by Secular Authority at *Paris*, and disallowed by Decree of the Colledge of *Sorbon*. But *James Keller* a German Jesuit, in his *Tyrannicidium*, or Treatise de *Tyranni internecone*, of Tyrant-Killing, Printed at *Muncken* in *Bavaria* 1611. Quest. 3. p. 38. & Quest. 5. p. 51. says it was

was only because he had extolled the Murther, or (as he calls it) only Slaughter of *Henry* the Third, King of *France*, and for a private Opinion which he published, that none of the Jesuits, Friers, Schoolmen, or Writers of the Church of *Rome* had holden or defended before him, that is, *it was lawful for any private Man to kill a Prince that could not be brought to Trial, or was not formerly Abdicated and Deposed by the People, or by them declared a Tyrant in publick Convention.* And says also, That the Colledge of *Sorbon* went no farther than the Council of *Constance*, *Sess. 15.* had done, which only condemns the Assertion, That every Tyrant may, and ought lawfully; and meritoriously be killed by his Vassal or Subject, by Clancular Treachery, or subtil Insinuation, notwithstanding any Oath made to him, *Non expectata sententia, vel mandato Judicis cujuscunque*, without the Sentence or Command of any Judge whatsoever; as Erroneous in Faith and Maners, Heretical, Scandalous; making way for Frauds, Lies, Treason, and Perjury, *Concil. Constant. Sess. 15. Labbee. Tom. 12. col. 114. C. D.* Printed at *Paris* 1672. yet for the other Doctrine of a double Tyrant, one without Title, the other in Practice, with a lawful Title, as hath been said before, he acknowledgeth it through the whole Tract, and avers it to be the Determination of all Schoolmen, Jesuits, and others; and in his Title-Page calls it *Scitum Catholicum*, The Catholick Judgment or Law.

From the Hints of some old Schoolmen, and the Principles of of *Zuinglius* and *Calvin*, and from the most ancient of these Discourses, the Treatise *De Jure Magistratus, &c. Junus Brutus* his *Vindiciae, &c.* and *Buchanans* Dialogue *De Jure Regni apud Scotos*, Father *Parsons*, as will be evident to any Man that will compare them, gathered all the Materials of the first part of his Conference, about the next Succession to the Crown of *England*, in which he endeavours to prove, That Propinquity of Blood, though it be certainly known, is not a sufficient Title to the Crown, without other Circumstances and Conditions, to be found in the Person Pretendent; first Printed in the year 1594. and reprinted at *London* 1681. (to serve a turn) with the second part, which examineth the Titles and Pretensions of all such as might have Claim or Action to the Crown of *England*, what (as he pretends) may be said against them, and what for them. This Book as [1.] *W. C.* tells us in his Reply unto a certain Libel set forth by Father *Parsons*, in the name of United Priests, Entituled, *A Manifestation of the great folly, and bad Spirit of certain in England, calling themselves Secular Priests, &c.* Printed *Anno Domini* 1603. concerning the Book of Succession, put out in the name of one *Dolman* a Secular Priest, the whole Work is nought else, but a deceitful Conference and Treatise to set up an old rotten, feigned Title; and no less a Deceit it seemeth to be, that he (speaking of Father *Parsons*) would put it forth in the name of a Reverend ancient Priest in *England*, to bring him into danger for the same, *p. 70. b. & 71. a.*

[1.] That is, *William Clerke*, who was a Secular Priest.

See more of this matter in the places here cited.

The first [2.] Part is pretended to have been the Discourse of a Civil Lawyer, and contains for the most part, in nine Chapters, the very Principles of Sedition and Rebellion, pretended to be proved and maintained by very many Texts and Examples out of Holy Scripture,

[2.] Title-Page.

Scripture, Examples out of *Greek* and *Latin* Historians, Examples in *France*, *Spain*, *Germany*, and other Nations. The *English* Examples and Instances generally are partially cited, or misapplied, or not fully understood by the Author, and are matter of Fact only.

The Second Part is there said to be the Speech of a Temporal Lawyer, about the particular Titles of all such as might pretend within *England* or without, to the next Succession after Queen *Elizabeth*: which according to his account, were ten or eleven; yet this Author says, (if any body will believe him) that this Treatise was wrote out of [3.] singular Devotion and Affection to that Excellent Princess, and with special care of her safety.

[3.] In the Epistle Dedicatory.

It was Dedicated to the Earl of *Effex*, with design, after the Queen of *Scots* was taken off, [4.] to baffle the Title of King *James*, who was her immediate Heir; and either to fix it upon the Earl, (for whom he had made a Title) or to promote a Contention between the King and him about it, while by some means or other (which was the main intention) the Infanta of *Spain*, by a far-fetcht, and only pretended Title, might obtain the Kingdom, and thereby advance their own Purposes and Religion.

[4.] *Camden. Eliz. f. 481, 482, 483.*

To this end there were several Projects put in practise by Father *Parsons*, as we find them in *W. C.* whose words are these. [5.] And touching the Colledges and Pensions, that are maintained and given by the *Spaniard*, (which he so often inculcates) we no whit thank him for them, as things are handled, and occasions thereby ministred of our greater Persecution at home, by reason of Father *Parsons* treacherous Practises, thereby to promote the *Spaniards* Title to our Country; and his hateful Stratagems, with such Scholars as are there brought up, inforcing them to subscribe to Blanks, and by publick Orations, to fortifie the wrested Title of the *Infanta*; Which Courses cannot but repay us with double Injuries and Wrongs, for the Benefits received.

[5.] *P. 52. a.*

And in another [6.] place he tells us, for the proof of the Scholars being urged to subscribe to Blanks, and to confirm the *Infanta* her Title to the Crown of *England*, is a matter very notorious and evident: we have divers Priests yet alive in *England*, to confirm the same by Oath, as well of them that were forced to subscribe against their Wills, as others that openly refused the same; I do therefore wonder, to see the Mans unshamefac't denial of so manifest and apparent Truth.

[6.] *Ibidem, p. 68. b.*

And speaking of this very Book of *Succession*, he says, [7.] concerning the Book of Titles, to have been read in the Refectory in *Rome* (meaning of the *English* Colledge there, whereof Father *Parsons* was then Rector) in stead of a Spiritual Lecture, used to be read at such times; There be divers yet that will depose the same against him; and Mr. *Lowbery*, now a Reverend Priest, was the Man should have read the same, but he rejected it, utterly refusing to meddle with such Stuff.

[7.] *P. 69. a.*

For his Practising with the Earl of *Essex*, *Watton* another Secular Priest tells us in his *Quodlibets*, p. 150, and 189. Printed 1602. that Father *Parsons* sent a Jesuit Priest to the Earl of *Essex*, to have had him to take a Pension of the King of *Spain* privately; for the advancement of his Designments, &c.

A How justly this Book is Censured by the Judicious *Camden*, and branded with perfidiousness, and design to delude, and abuse the People, raise Tumults and Seditious; The Reader may see in his *Elizabetha*, f. 482.

B In the year 1648. as a Preparative to the Deposition and Murder of King *Charles* the First, there was published a Pamphlet, and Printed at *London* by *Robert Ibbitson*, Licensed by *Gilbert Mabbot*, under the Title of *Several Speeches, delivered at a Conference concerning the power of* [8.] *Parliaments to proceed against their King for Misgovernment*; And the Heads in the Title-Page, upon which these Speeches are pretended to be made, are in number nine, and the very same *verbatim* with the Titles of *Dolemans* nine Chapters in his first part of the Conference touching the Succession to the Crown, and the matter and words of the Speeches themselves, almost in all things, are the very same, except the Transitions, Connexions, and some few not material Passages, which are left out.

C From these Discourses of *Junius Brutus*, the Anonimous Author of the Treatise *De jure Magistratum*, &c. the Dialogue of *Buchanon*, Book of *Mariana*, and First Part of the Conferences of *Doleman*, which by crafty Men were published by Retail in several Pamphlets, Speeches, Declarations, Pernicious Deductions, &c. and from the nine Speeches last mentioned, all the *Factions* in the late times of Rebellion were furnished with Arguments, Reason, Examples, and Pretences for their Seditious Practises.

E And the Suggestions of the Act for the Tryal of King *Charles* the First, the Charge against him, and the Materials of the Speech *Bradshaw* made to declare the grounds of the Sentence, and aggravate the things laid to his Charge, by misapplying both Law and History, were borrowed from these Presbyterian and Jesuitical Books; as likewise was much of the most Seditious part of *Miltons* Book, Entituled, *The Defence for the People of England*.

F And that the Charge against the King, and the words of *Bradshaw* in the Trial were drawn up from these Seditious Discourses, will best appear from themselves, as they were examined by the Original Copy, with *Gilbert Mabbots* Imprimatur. On the 20th of *January* being *Saturday* 1648. Cook the Solicitor spake thus to *Bradshaw*, My Lord, in the behalf of the Commons of England, and all the People thereof, I do accuse *Charles Stuart*, here present, of High Treason, and High Misdemeanors; And I do in the Name of the Commons of England desire the Charge may be read unto him. Which was in part as [9.] followeth;

That the said *Charles Stuart* being admitted King of England, and therein trusted with a Limited Power to govern by, and according

[8.] This is the common chear, to call the two Houses, or a prevailing Party in the two Houses, or in one House, a Parliament; So it was in the Reign of *Edward* the Second, *Richard* the Second, and *Charles* the First, That Rebellious restless Faction that Murdered them when they were Prisoners called themselves a Parliament: when as nothing can constitute a Parliament, but the King, Lords Spiritual and Temporal, and Commons, all assembled in perfect freedom.

[9.] The Charge, &c. p. 3.

to the Laws of the Land, and not otherwise ; And by his Trust, Oath, and Office, being obliged to use the Power committed to him, for the good and benefit of the People, and for the preservation of their Rights and Liberties ; yet nevertheless, out of a wicked design to erect and uphold in himself an unlimited and Tyrannical Power to Rule according to his Will, and to overthrow the Rights and Liberties of the People, &c.

[1.] Narrative of the Proceedings, &c. p. 6.

And being brought to his Trial Monday Jan. 22. he demanded by what Power he was called thither. Bradshaw Answers, [1.] That if he had pleased to have observed what was hinted to him by the Court at his first coming, he would have known by what Authority ; which Authority (says he) Requires you, in the Name of the People of England, of which you are Elected King, to answer them. Which the King denied.

[2.] Ibidem, p. 12.

Bradshaw. Sir, [2.] I must interrupt you, which I would not do, but that what you do is not agreeable to the proceedings of any Court of Justice ; you are about to enter into Argument and Dispute concerning the Authority of this Court, before whom you appear as a Prisoner, and are charged as a high Delinquent, &c.

[3.] Ibidem, p. 13.

Bradshaw again in the same Page ; Sir, I must interrupt you, you may not be permitted, you speak of Law and Reason, it is fit there should be Law and Reason, and there is both against you. Sir, The Vote of the Commons of England assembled in Parliament, it is the [3.] Reason of the Kingdom, and they are those that have given it Law, according to which you should have Ruled and Reigned ; Sir, you are not to dispute our Authority, you are told it again by the Court ; Sir, it will be taken notice of that you stand in Contempt of the Court, and your Contempt will be Recorded accordingly.

[4.] Ibidem, p. 13.

The King. [4.] I deny that, shew me one President.

[5.] Ibidem, p. 14.

Bradshaw. [5.] Sir, You ought not to interrupt while the Court is speaking to you ; this point is not to be debated by you, neither will the Court permit it, if you offer it by way of Demurrer to the Jurisdiction of the Court, they have considered of their Jurisdiction, they do affirm their own Jurisdiction.

[6.] Ibidem, p. 14.

The King. [6.] I say Sir, by your favour, that the Commons of England was never a Court of Judicature, I would know how they came to be so ?

[7.] Ibidem.

Bradshaw. [7.] Sir, You are not to be permitted to go on in that Speech, and these Discourses.

After

After [8.] several days Altercation between the King and Bradshaw about the Jurisdiction of the Court, which the King would not own, nor would Answer, Guilty or Not Guilty; Bradshaw proceeded to declare the grounds of the Sentence; where he said, *That the Barons of old, when the Kings plaid the Tyrants, called them to Account, and did frænum ponere; That if they did forbear to do their Duty now, and were not so mindful of their own Honour, and the Kingdoms, as the old Barons were, certainly the Commonalty of England would not be unmindful of what was their preservation and safety; That this was not a Law of yesterday, but of old; and that the Kings Oath implied as much: and where the People could not have any other Remedy, the Parliament were to do it, who were Ordained to Redress the Grievances of the People.*

[8.] Narrative of the Proceedings on the 27th of January, being the last day, p. 10, 11.

Then repeating out of Doleman, the trite Story of the Ephori and Tribunes, and some Examples of Kings of France, Spain, Scotland, and England, that had either been Deposed or Murthered by their Subjects, or both. He says, *As for [9.] Succession by Inheritance, it was plain from the Conquest, that of twenty four Kings, one half of them came in by the State; That the Oath at his Coronation did shew there was a Contract and Bargain made by the People.*

[9.] Ibidem, p. 13. All our Ignorant, Democratical Writers harp upon this String, and labour to persuade the People, as much as they can, that this is an Elective Monarchy.

Who that reads this short Account of the Kings Charge and Trial, can deny the Proceedings to have been according to the Methods of the Presbyterians and Jesuits, or can deny that the lesser part of the People, when in Arms, will make themselves the greater? for the number of the Commons that passed their Act for the Kings Trial, were but forty six, not the tenth part of a House of Commons duely Constituted; and if the People had been asked one by one, not one in an hundred would have consented to the Kings Murther, or chosen such Representatives (if they might have had a free Choice) as would have consented to it; and yet this Charge is drawn up, and urged against the King, as the Act of the Commons, and all the People of England. Or lastly, Who can deny that they published for Law and Right, whatsoever they did or said, though it were never so Treasonable, Vile, or Wicked?

Also in the year 1655. at London, was Printed an Abstract of Parsons his Book, containing the Substance and often the Words of it. The Chapters being divided into several short Sections, with Titles to each of them; This bears the name of *A Treatise concerning the broken Succession of the Crown of England.* To what end it was at that time published I cannot guess, unless to set up a Foreign Title, or make way for Oliver Cromwell's Kingship.

And now lately there hath come forth a Pamphlet, under the name of *A Brief History of the Succession, collected out of the Records, and most Authentick Historians; for the satisfaction of the Earl of H.*

Much of the Materials of this Pamphlet, and most of the History contained in it concerning the Succession, are taken out of the Second Part of the Jesuits Book, the Speeches, and Abstract before mentioned; but this Authors industry leads him farther than Polydor

Virgil, who is mostly cited by his three Predecessors ; and sometimes *Stowe* and *Hollinshead*. And for the making his Work more plausible and passable, and more readily to be received by his ordinary Readers, he takes very little notice of *Polydor*, (who pointed him to his Authors and Places) but cites *William* of *Malmsbury*, *Henry* of *Huntington*, *Simeon Dunelm.* *Ailredus Abbas Ricvallisensis*, *Brompton* and others, ancient Writers, in his *Saxon* Instances especially : whose Words, if faithfully cited, would have been of no use to him ; for often, in the middle of the Sentences, and of Records he hath cited, he hath left out such Words and Matters as would have ruined the Design of his History. A Parallel of his Words, with the true Words of the Authors from whence he had them, will be given at the later end of this Treatise.

Hence we proceed to the *Succession* ; by a true History whereof, Men will be able to Judge what was the Government, and how the Crown hath Hereditarily descended for many Ages in this Nation : And though History is so deficient, and the many Rencounters, and Invasions of one anothers Territories, and Bickerings between the petty Kings and Governors of the *Saxons* in the time of the *Heptarchy*, the Succession cannot well be made out ; yet (though not in all) we may be able to make out a Succession in the greatest, and most illustrious Kingdom of them ; which was that of the *West-Saxons*.

The Saxon Succession.

Egbert, who is commonly said to be the first *Saxon* Monarch, though he brought not the whole *Heptarchy* under his Power and Government, succeeded *Brihtric*, King of the *West-Saxons*. The Words of the *Saxon* Chronicle are these only ; [1.] BEORHTRIC CYNING FORTHFERD & ECGRYHT FENG to WEST-SEAXANA RICE. Which words the Translator thus renders, *Beorhtricus Rex Occidentalium obiit, Egbrichtus Occidentalium Saxonum Regnum cepit*.

[1.] *Anno Dom. 801.*

And [2.] *Florence* of *Worcester*, who strictly follows this Chronicle, says, *Rex Occidentalium Saxonum Brihtricus obiit & Egbertus successit* : That is, *Brihtric* died, and *Egbert*, King of the *West-Saxons*, took the Kingdom, or succeeded him.

[2.] *Anno cod.*

[3.] *Simeon Dunelmensis* says, *Defuncto Rege glorioso Brihtrico Occidentalis regni, suscepit post ipsius obitum Regnum & Imperium Egbertus Rex, Qui ex regali illius gentis prosapia exortus Diadema totius regni capiti imposuit*.

[3.] *Anno Dom. 802.*

[4.] *William* of *Malmsbury* is more particular in this matter, and reports the Jealousie *Brihtric* had of *Egbert*, *Quem solum regalis prosapie superstitem, validissimam suis utilitatibus obicem metuebat, Franciam fugandum curavit*. Who only of the Royal Line was left, and the greatest Check to his Design, he caused to fly into *France*.

[4.] *De Gest. Reg. fol. 8. a. n. 10.*

[5.] *Nam*

[5.] *Nam & ipse Brihtricus & ceteri infra Inam Reges licet naturalium splendore gloriantes, quippe qui de Cerdicio originem traherent, non parum tamen linea regia stirpis exorbitaverant.* For though Brihtric himself, and the rest of the Kings since *Ina*, boasting of their Lineage, as drawing their Origin from *Cerdic*; yet they did not a little exorbitate from the true Royal Line.

[5.] *Ibidem.*

The Pedigree of Egbert.

[6.] *Egbertus fuit filius Ealmundi, Ealmundus Eafæ, Eafa Eoppæ, Eoppa fuit filius Ingildi:* Egbert was the Son of *Ealmund*, *Ealmund* of *Eafa*, *Eafa* of *Eoppa*, *Eoppa* of *Ingild*, [7.] the only Brother of *Ina*, King of the *West-Saxons*; who left his Kingdom, went to *Rome*, lived a Monastick Life, and died Childless.

[6.] *Chron. Sax. Anno Dom. 854. Flor. Wigorn. 849. [7.] Gul. Malm. fol. 7. a. n. 30.*

[8.] *Ethelwolfe* succeeded his Father *Egbert* in the Kingdom of the *West-Saxons*, and he gave to his other Son *Æthelstan* his Conquests, *Kent*, *East-Sex*, *Surrey* and *Sussex*; of which he made him King.

[8.] *Chron. Sax. Flor. Wigorn. Anno Dom. 836.*

[9.] *Malmsbury* saith thus; *Ethelwolphus West-Saxonum regno contentus, cetera quæ pater subjugaverat Appendicia, Æthelstano filio contraxit, qui quanto & quo fine defecerit incertum.*

[9.] *Fol. 20. a. n. 30.*

[1.] *Ethelwolph* by Will divided his Kingdom between his Sons *Ethelbald* and *Ethelbert*. [2.] To *Ethelbald* he gave *West-Saxony*, to the other *Kent*, &c. and by his Will gave the Kingdom of *West-Saxony* to his Sons *Ethelred* and *Elfrea*, after *Ethelbald*'s Death, successively.

[1.] *Malm. fol. 22. a. n. 20. & b. n. 30. Flor. Wig. A. Dom. 855. [2.] Chron. Sax. Anno Dom. 854.*

Ethelbald lived but five years, when *Ethelbert* possessed the whole Kingdom, *Ut justum erat*, says, [3.] *Affer*, *Florence* of *Worcester*, and *Simeon Dunelmensis*.

[3.] *Fol. 4. n. 40. Anno Dom. 860.*

[4.] *Ethelred*, third Son to *Ethelwolph*, and Brother to *Ethelbert*, succeeded him in his Father's Kingdom, who Reigned five or six years.

[4.] *Flor. Wigorn. Chron. Sax. 866. Malm. fol. 22. b. n. 50.*

[5.] *Alfred*, fourth and youngest Son of *Ethelwolph*, succeeded his Brother *Ethelred*. *Fratribus suis Secundarius fuit*: He was a Coadjutor, or Assistant to his other Brothers. *Affer. fol. 7. n. 50.*

[5.] *Ibid. fol. 23. a. n. 40. Chron. Sax. Anno Dom. 871. Flor. Wg.*

To whom succeeded his Son [6.] *Edward*, called the Elder.

[6.] *Ib. Anno Dom. 901. Malm. fol. 25. n. 40.*

To him succeeded his Son [7.] *Æthelstan*, *EADWEARD CYNG FORTHFERD* and *ÆTHELSTAN* his *SUNN FENG* to *RICE*. King *Edward* died, *Ejusque filius Æthelstanus capescit regnum*: And his Son *Æthelstan* succeeded in the Kingdom. These being the usual *Saxon* and *Latin* Words by which the Succession is expressed.

[7.] *Chron. Sax. Anno Dom. 925.*

[8.] *Florence* of *Worcester*, and *Simeon* of *Durham*, both say, *Rex Edwardus Sen. ex hac vita transiens Æthelstano filio regni gubernacula reliquit*: King *Edward* the Elder dying, left the Government of the Kingdom to his Son *Æthelstan*. [9.] *Malmsbury* says thus in the History of *Edward* the Elder; *Jussu Patris in Testamento Æthel-*

[8.] *Both in An. Dom. 924.*

[9.] *Lib. 2. cap. 6. fol. 27. a. lin. 27.*

stanus

stanus in Regem acclamatus est : By the Command of his Father, in his Will, *Æthelstan* was proclaimed King.

By some *Æthelstan* is affirmed to be a Bastard, from the report of [1.] *William* of *Malmsbury*, in the Book and Chapters last cited : who tells us that one *Alfred*, a Man of [2.] great Insolence, and his Faction, opposed *Æthelstan*, upon pretence he was a Bastard. *Occasio contradictionis ut ferunt* (says the Historian) *quod Æthelstanus ex Concubina natus esset* : The occasion of Contradiction was, that *Æthelstan* was born of a Concubine, as was reported. *Sed ipse præter hanc notam, si tamen vera est, nihil ignobile habens* : But he had no other Mark of Ill upon him but this, if it were true. And telling the Story how King *Edward* the Elder (as it was reported) stole a Leap with a Shepherd's Daughter, by the help of his sometimes Nurse ; of whom, it is fabled, he begat *Æthelstan* ; he says he had it from [3.] trite Tales and Songs ; and that he related it not to defend the truth of it, but because he would keep nothing from his Readers. Nor indeed is the Story credible ; for the same Author in the same [4.] Chapter reports, that his Grandfather, famous King *Alfred*, in his Life-time wished him a prosperous Reign, embracing him as a Child of great Hope, and excellent Behaviour, and Knighted him in his Childhood ; putting on him a Scarlet Cloak, and girding him with a Belt set with Gems, and a *Saxon* Sword in a Golden Scabbard. This so wise and great a King as *Alfred* was, would never had said and done to a Bastard.

[5.] *Edmund* his Brother succeeded *Æthelstan* in the Kingdom.

After him [6.] *Edred*, third Brother to *Æthelstan*, succeeded in the Kingdom, and was Consecrated King by *Odo* Arch Bishop of *Canterbury*. This was done in the Nonage of King *Edmund*'s Sons, when they were very young, and the Nation under great difficulties. The *Saxon* Chronology says, *EADRED ÆTHELING* his Brother *FENG* to *RICE* *regnum capessit*. *Florence of Worcester*, *Edredus proximus hæres fratris succedens regnum suscepit*. [7.] *Malmsbury*, *Edredus tertius e filiis Edwardi regnum suscepit*. *Simeon Dunelmensis*, *Edredus frater Edmundi in regnum successit*.

Edmy [8.] the Son of *Edmund* succeeded his Uncle *Edred* : He banished *Dunstan*, turned out Monks, and placed Secular Priests in Monasteries ; and [9.] was so displeasing to the *Mercians* and *Northumbrians*, that they rejected him, and chose his Brother *Edgar* ; who also succeeded *Edmy* in the Kingdom of the *West-Saxons*. [1.] *Eadwigus Rex* *Kal. Octobris obiit*, and *Edgar* his Brother *FENG* to *RICE* : *Edmy* died on the First of October, and *Edgar* his Brother took the Kingdom. *Flor. Wigorn.* *Ab omni Anglorum populo Electus regnum suscepit*. [2.] *Malmsbury*, *Edgarus adolescentulus sedecem annorum regnum adipiscit*.

Edward his Son, called the Martyr, succeeded him ; *filiumque suum* [3.] *Edwardum & regni & morum hæredem reliquit* : And left his Son *Edward* Heir, as well of the Kingdom, as of his Vertues and Endowments. But there happening a Contest between him and his Brother about the Succession, [4.] *Quidam Regis filium Edwardum, quidam*

[1.] Lib. 2.
c. 6.
[2.] Ibid. fol.
29. lin. 32.

[3.] Ib. n. 10.

[4.] Ibid. fol.
27. l. 28.

Æthelstan
Knighted by
King *Alfred*.

[5.] Chron.
Sax. Anno
Dom. 941.
Flor. Wig. Sim.
Dunelm. 940.
[6.] Ib. Anno
Dom. 946.

[7.] Fol. 30.
a. n. 50.

[8.] Chron.
Sax. Flor. Wig.
An. Dom. 955.
[9.] Nothing
of this Story
in the *Saxon*
Chronology.
[1.] Chron.
Sax. An. Dom.
957.

[2.] Fol. 30.
b. n. 40.

[3.] Chron.
Sax. An. Dom.
975. Flor. Wig.
975. Sim. Du-
nelm. 975.
[4.] Ibidem.

quidam illius fratrem eligerunt, Ethelredum : quam ob causam Archipresules Dunstanus & Oswaldus cum Co-episcopis, Abbatibus, Ducibusque quamplurimis in unum convenerunt, & Edwardum, ut pater ejus preceperat, eligerunt, Electum consecrarunt, & in Regem unxerunt : Some elected Edward, the King's Son, some his Brother Ethelred : wherefore the Arch-Bishops, Dunstan and Oswald, with the Bishops, Abbats, and very many Noble-Men, being gathered together, elected Edward, (as his Father had commanded) Consecrated and Anointed him King. [5.] This Contest was managed, and set on foot by Elfrida, second Wife to Edgar, and Mother in Law to Edward.

[5.] *Malmf. fol. 33. b. n. 40.*

Who [6.] by her Contrivance being Murthered, was succeeded by his Brother *Ethelred*. FENG ETHELRED ÆTHELING his BROTHER to RICE : and *Ethelred Ætheling* his Brother enjoyed, or possessed the Kingdom.

[6.] *Flor. Wigor. Anno Domini 978. Sax. Chron. An. Dom. 978.*

The Danes, ever since the beginning of King *Egbert*, having by continued Invasions, harassed, and grievously wasted and molested *England*, in the Reign of King *Ælfred*, by [7.] Pact and Bargain between him and *Guthrum*, enjoyed *East-Saxony*, or *Essex*, and the Country of the *East-Angles*, and a far greater part of this Nation, as many think. And in this King *Ethelred's* Reign, *Swane*, King of *Denmark*, with a great Army Invaded, and made himself Master of the whole Nation ; forcing *Ethelred* and his Wife *Emin*, Sister to *Richard*, second Duke of *Normandy*, with their two Sons, *Edward*, and *Alfred*, into that Country.

[7.] *Fæd. Ælfr. & Guibr. c. 1. Lamb. fol. 36.*

But [8.] *Ethelred* had a former Wife *Elgiva*, Daughter of Duke *Thored* : By her he had many Sons ; of whom *Edmond* called *Ironside*, being the third, *Æthelstan* and *Egbert* dying without Issue, by the [9.] Election of the *Londoners* and *West-Saxons*, succeeded his Father in the Kingdom.

[8.] *Ælfred. vit. Appen. 7. fol. 210.*

[9.] *Ingulph. fol. 507. b. lin. 5.*

Florence of Worcester says, again, after the death of *Ethelred*, the Bishops, Abbots, *Duces* & *quique Nobiles Angliæ*, met, and chose *Cnute* the Son of *Swane* ; but the *Londoners*, and that part of the Nobility which was with them, by one consent made *Edmund* King.

Anno Dom. 1016.

After [1.] several Battles fought, for the Sovereignty of the Kingdom, between these two Pretenders and their Adherents, being weary on both sides, they were persuaded to part the Kingdom between them ; which was done. But not long after *Edmund* died at *London* : The Arch-Traytor [2.] *Edric*, after he had caused *Edmund's* Brother *Edwy* to be Murthered, advised *Cnute* to kill his two Sons also, *Edward* and *Edmund*. But he thinking it a great scandal, and disgrace to him that they should be killed in *England*, sent them to his Friend and Confederate, the King of *Sweves*, to be slain ; who not complying with his desire, sent them to *Solomon*, King of *Hungary*, to be preserved : where *Edmund* died, and *Edward* Married *Agatha*, Daughter to *Henry* the Roman Emperor : by whom he had *Edgar Ætheling*, *Edmund*, *Christiana*, who all died without Issue ; and *Margaret*, Queen of *Scotland*, whose Daughter *Maud* was Married to *Henry* the First.

[1.] *Ibid.*

[2.] *Ib. Anno Dom. 1017.*

After

[3.] Fol. 509.

a. lin. 2.

[4.] Lib. 2.

c. 12.

Cnute had also
by Emme, a
Daughter
named Gun-
hill, Married
to Henry 3d.
Emperor of
Germany, Wal-
singh. Hypol.
Neustr. f. 4-8.
n. 10.

[5.] Flor.
Wigor. Anno
Dom. 1040.

[6.] Fol. 164.

c.

[7.] Flor.
Wigor. Anno
Dom. 1042,
1043

[8.] Malmf.
f. 450. n. 10,
20.

[9.] Gemet.
lib. 6. c. 9.

[1.] Ibidem.

[2.] Col. 372.
n. 30, 40, 50.

[3.] Sim.
Dunelm. Col.
189. n. 20.

After the death of Cnute, the Londoners, as [3.] Ingulph of Croyland, and [4.] William of Malmesbury do report, chose Harold; but the English had a mind to chuse Edward the Son of Ethelred, or at least Hardecnute the Son of Cnute by Emme his Wife, the Widow of King Ethelred, who was then in Denmark; and that he coming over, the Kingdom was divided between them; and taking Possession of his Share, returned into Denmark: and that Harold, in his absence, made himself Master of the whole Kingdom; who [5.] living only four years, after his death, both English and Dines sent for Hardecnute into Denmark to succeed him. The Author of the *Encomium* of Emme [6.] says, Cnute gave both this, and his other Kingdoms to his Son Harde-Cnute, by Emme.

Edward, [7.] by the Policy, Power, and Industry, chiefly of Earl Godwin, and Livingus Bishop of Worcester, was made King at London, and was Anointed King at Winchester by the Arch-Bishops of Canterbury and York, and almost all the Bishops in England. He being in England at the time of the death of his half-Brother Harde-Cnute [8.] was in a great streight, not knowing what to do, and thinking to retire into Normandy, as he was advised by the Normans, applied [9.] himself unto Earl Godwin, who minded him whose Son he was, and of his Right to the Kingdom; and agreeing to Marry his Daughter Edgith, and to other Conditions propounded to him, being forced by necessity to consent thereto, Godwin (a Council being immediately called) by his Reasons and Rhetorick, made him King. Gul. Gemeticensis [1.] saith, Hardecnutus reliquit Edwardum fratrem totius regni Hæredem: Harde-Cnute left Edward his Brother Heir of the whole Kingdom.

Ailred, [2.] Abbot of Rievall, tells an idle Tale in the Life and Miracles of Edward the Confessor; that his Father, King Ethelred, being solicitous about a Successor, though he had at that time two Sons, Edmund Ironside, and Alfred; yet in a great Convention of Bishops and Noblemen before him, and a great Concourse of ordinary People, by the Prescience and Direction of God Almighty, this Edward was chosen King while he was in his Mothers Womb. *Præbet electioni Rex consensum, lati præbent procures Sacramentum, & insusitato Miraculo in ejus fidelitate jurarunt, qui utrum nasceretur ignorarunt*: The King consents to the Election, and the Noblemen joyfully; and by reason of an unusual Miracle, swear Fealty to him before they knew whether ever he would be born. He is the only Author of this Legend that I know of, and do think it a little too gross to be believed.

Edward the Confessor designed his Nephew, Prince Edward, the Son of Edmund Ironside, for his Successor; and in the thirteenth year of his Reign, nine years before he died, sent for him out of Hungary, where he then was in Banishment; but in a short time after he died at London, [3.] Anno Dom. 1057. Clito Edwardus Regis Eadmundi ferrei lateris, filius, ut ei mandarat suus Patruus Rex Edwardus de Hungaria, quò multo anno in exilium missus fuerat, Angliam venit, decreverat enim Rex illum post se Regni hæredem constituere, sed ex quo venit parvo post tempore vita decessit Londoniæ.

After

After the death of Edward the Confessor, Harold [4.] *Throno Regio se intrusit*: And as Ailredus before cited hath it, [5.] *Quidam* Edgarum Adeling, cui Regnum Jure hereditario debebatur Regem constituere moluntur, sed quia puer tanto honore minus idoneus videbatur, Haraldus Comes, de genere Proditorum; cujus erat & mens astutior, & crumena facundior, & miles copiosior, sinistro omine Regnum obtinuit: Some endeavoured to make Edward Atheling King, to whom the Kingdom belonged by Hereditary Right: But because he was a Child, and seemed not fit for so great Honour, Earl Harold, a crafty Traytor, being better furnished with Money and Soldiers; by sinister Fate obtained the Kingdom. To the same purpose Henry of Huntington says, *Quidam* Anglorum Eadgar Adeling permovere volebant in Regem; Haraldus vero viribus, & genere fretus Regni Diadema invasit: That is, Some of the English would have had Edgar Atheling King; but Harold, being well furnished with Forces, and assisted by his Kindred, invaded the Crown, f. 210. b. n. 10.

[4.] Ingulph; f. 511. b. n. 50.
[5.] De Gene Reg. Angl. Col 366. n. 50.

From the various Expressions of the ancient Writers of the Saxon Story, concerning the Succession, an unwary Reader would think the Saxons agreed not in one Rule of Succession, or that they had no Rule at all. But whoever considers with understanding what here is said, will find they had, and pursued a sure Rule of Succession; which was either Right of Blood, or the Nomination and Appointment of the preceding King: (as we hinted before) which Nomination by the Saxon Kings mostly happened in the Minority or Nonage of their Children, and that only [6.] was thought and allowed Cause sufficient, for the Father to prefer his Brothers Son before his own, or a Bastard, *Ut Pater fratris filium proprio, vel etiam Nothum anteferet Germano*, before his lawful Issue. For by the subsequent Instances it will plainly appear, that the Saxons did in their Subjection, owning of, and submission to their Princes, acknowledge both Proximity of Blood, and Nomination of their Princes; often both, sometimes only one of them; but never followed any other Rule.

[6.] Vit. Ælfred. f. 9. l. 4. sect. 10.

Æthelwolp, the Father of Ælfred, notwithstanding by Proximity of Blood his Sons were his Heirs, yet [7.] bequeathed his Kingdom successively to Ethelbald his Eldest, Ethelred his Third, and Ælfred his Fourth; having before given Kent, Surrey, and Sussex, &c. to his Second Son Ethelbert: [8.] yet he succeeded Ethelbald in all his Dominions, and Ethelred and Ælfred both succeeded him according to their Fathers Will, [9] notwithstanding it is said Ethelbert had two Sons, Athelm and Æthelwald. This Testament of Ethelwolp [1.] Florence of Worcester calls *Epistola Hereditaria*.

[7.] Testam. Ælfr. Affer. f. 22. n. 20.

[8.] Flor. Wig. Anno Dom. 860. 866.

[9.] Vit. Ælf. f. 9. in Not.

[1.] Fol. 584.

Edgar [2.] *filium suum Edwardum & Regni & morum heredem reliquit*: Left his Son Edward Heir of his Kingdom and Endowments. Archipresules Dunstanus & Oswaldus cum Coepiscopis, Abbatibus & Ducibus quamplurimis una convenerant, & Edwardum ut pater ejus præceperat, eligerunt, electum consecraverunt, & in Regem unxerunt: The Arch-Bishops Dunstan and Oswald, with their Fellow-Bishops, Abbats; and very many Dukes, or Prime Men, chose Edward, as his Father had commanded, and Consecrated and Anointed him King.

[2.] Flor. Wig. Anno Dom. 975.

Sim. Dunelm. ibid.

See the word
Electus in
Glossar.

Eligerunt here signifies no more than *Recognoverunt*, They acknowledged, owned, submitted unto him as their King, as his Father had commanded, and by Will appointed.

This Kings Command was stricter than a *Conge D'eslire*; where the King nominated the Person to be chosen Bishop, and he is always accepted and owned by the Chapter; and yet they are said to chuse, though limited by the Kings Nomination. So in many Corporations and Bodies Politick, in this and other Nations, they have a Person nominated to them; and yet they are said to chuse him, though they can chuse no other.

[1.] *Sim. Dun.*
Flor. Wigorn.
An. Dom. 924.

Rex Edwardus senior ex hac vita transiens, [1.] filio Æthelstano Regni Gubernacula reliquit: King Edward the Elder dying, left the Government of his Kingdom to his Son *Æthelstan*.

[2.] *Malmf. de*
gest. Regn. l.
2. c. 6. f. 27.
a. lin. 27.

[2.] *Æthelstanus jussu patris in Testamento in regem acclamatus est*: After him, his Brother *Edmund* swayed the Scepter.

[3.] *Flor. Wig.*
An. Dom. 946.

Cui [3.] Edredus proximus heres fratri succedens Regnum suscepit: To whom *Edred*, the next Heir, succeeded his Brother *Edmund*, and undertook the Government.

What next Heir could *Edred* be to his Brother *Edmund*, but a Testamentary Heir? when at that time he left two Sons, *Edwy* and *Edgar*, both small Children, and both were Kings successively, after their Uncle; whose Guardian he only was, though the Historian says he was his Brothers Heir.

* *Du Fresno* his
Lexicon in
the word
heredes.

Yet *Edred* had the Title of a King, and perhaps might be Crowned too, (if any of the *Saxon* Kings were so) with the same Pomp and Celebrity that was used afterward. The * Sons and real Heirs of Emperors, Kings, Dukes, Earls, Barons, were not always in ancient times called Emperors, Kings, Dukes, Earls, or Barons; but many times their Title was, the Heir only of the Empire, Kingdom, Earldom, Barony, &c. during their Minority: and their Tutor, Governor, or Protector, or such as had the Care of them, and the Administration of the Government, were sometimes called Emperors, Kings, Dukes, Earls, and Barons, of such Empires, Kingdoms, Dukedoms, Earldoms, and Baronies, until the Heir came of Age, and sometimes also those Curators, and Guardian Kings and Emperors were Anointed and Crowned.

Concerning this Testamentary Heir it is said, *Viventis non est heres*; for the Testator might alter his Will when he pleased. These Testamentary Heirs were either *Scripti*, as when the Testament was written by the Testator: or *Nuncupati*, as when it was written by another, and Dictated by the Testator; or they were declared Heirs only before many Witnesses without Writing; and without doubt often it happened that our *Saxon* Kings did only call together the Bishops and Nobility, or such of them as they pleased, and declared their minds concerning their Successor.

Cnutoni virorum dignissimo [4.] pater Swanus Sceptum commisit Regale. Swanus Danorum Rex Angliam vi suo subjugabat imperio, moriens ejusdem Regni Cnutonem Successorem constituit: Swane, King of Denmark, having subdued England by force; dying, appointed Cnute his Successor in that Kingdom.

[4.] *Enccmi-um Emmæ*, fol 164. B.

By *Emme*, Widow to King *Ethelred*, whom he had Married, and made his Queen, he had *Harde-Cnute* his Son: [5.] To him his half-Brother *Cnute* gave all that had been any ways under his Government. But *Harde-Cnute* being in Denmark when his Father died, whereof he had made him King, *Harold* possessed himself of *Eng-land*.

[5.] *Ibid.* c

Who was [6.] *Cnute's* Son by a Concubine, or a Bastard Son of a Maid-Servant brought into his Concubines Chamber, and imposed on him by her. And for this reason *Elnoth*, Arch-Bishop of *Canterbury* refused to Consecrate him King, and to deliver him the Crown, and Scepter.

[6.] *Ibid.* 174. A. B.

Harold being dead, [7.] *Harde-Cnute*, so soon as he was confirmed and settled in this Kingdom, called his half Brother *Edward* by his Mother *Emme* (afterward called the Confessor) out of *Normandy*, and caused him to live with him; who dying within two years, [8.] *Edwardum totius Regni reliquit heredem*, left *Edward* Heir of the whole Kingdom. He could be no other than a Testamentary Heir, there being Heirs of the right Line, both of *Saxon* and *Danish* Blood, before him.

[7.] *Qul Gem.* lib. 6. c: 9.

[8.] *Ibidem.*

Rex *Edwardus* [9.] *Robertum Archiepiscopum Cantuariæ Legatum ad Gulielmum Comitem Normaniæ a latere suo direxit, illumque designatum sui Regni Successorem tam debito cognationis quam merito virtutis, sui Archipresulis relatu insinuavit.*

[9.] *Ingulph. Histor.* f 511. b. n. 40.

King *Edward* sent *Robert*, Arch-Bishop of *Canterbury*, Envoy to *William*, Earl of *Normandy*, to let him know he was appointed his Successor in his Kingdom, as well for that he was of his Kindred, as for his great Vertue.

With *Ingulph* agrees [1.] *William* of *Poitou*: and adds, the Succession was given to him by *Edward*, *Cum Optimatum suorum assensu.*

[1.] *Fol.* 181. D.

These three last Authors were living at that time.

[2.] *Eadmer*, f. 5. n. 10.

Harold [2.] going to *William*, Duke of *Normandy*, to release his Brother and Nephew that were Hostages with him for his Father Earl *Godwin's* Good Behaviour towards King *Edward*, he told *Harold* that King *Edward* had faithfully promised him, that if ever he should be King, *Jus Regni in illum jure hereditario post se transferret*: That he would, after himself, transfer the Hereditary Right of the Kingdom to him. Yet [3.] *Eadmer* says, *Juxta quod Edwardus ante mortem statuerat, in Regnum ei successit Haraldus*: according as *Edward* had appointed before his death, *Harold* succeeded him in the Kingdom.

[3.] *Ibidem*, n. 40.

Florence of *Worcester* [4.] says, *Haraldus quem Rex ante suam De-cessionem regni Successorem elegerat, a totius Angliæ primatibus ad regale Culmen electus est.*

[4.] *Fol.* 632. Anno Dom. 1066.

[5.] An. Dom.
1066.*Simcon* of *Durham* [5.] hath the same words.

Harold, whom the King had chosen his Successor before his Decease, was elected to the Royal Dignity by the chief Men of *England*. Here we see how the *Election* was bound and limited, by the Nomination of the Successor, by the Predecessor.

[6.] Fol. 511.
b. n. 50.

These are the words of *Florence* of *Worcester*, and such as follow him. Which notwithstanding, he certainly was a plain Usurper according to [6.] *Ingulph* of *Croyland*, and *Ailred Abbas Rieval.* and *Henry* of *Huntington* before noted, the Donation of *Edward* being a meer pretence.

From *Egbert* the first *Saxon* Monarch, to *Ethelred* the last *Saxon* King, by Right of Blood, for the space of two hundred and sixteen years, we read not of many Elections: and where we do meet them, they are bound and limited by Proximity of Blood, or Nomination of the Successor by the Predecessor: And where the word Election, or any thing in that Sense is used, it signifies only a Recognition, and Submission.

The *Saxon* Expression concerning Succession and the Successor, is always the same. FENG to RICE, variously turned by Translators, *Regnum capessit* in the *Saxon* Chronology, which renders it *verbatim*; by others, *Successit, electus est, &c.* He took Possession of the Kingdom, He succeeded, He was chosen, &c.

The *Danish* Kings stayed not long here after *Sivane* had Conquered the Kingdom; they all four Reigned not much above twenty five years, their best Title was the Sword: notwithstanding, they either brought hither the Custom of the Predecessor naming or giving the Kingdom to his Successor, as probably it might have been practised in their own Kingdoms; or used it as they found it here practised by the *Saxon* Kings.

The *Saxons* were very weary of the *Danish* Government, and without doubt, very forward to set up a King of their own Nation; yet the Donation of *Harde-Cnute* was as great a step for *Edward* the Confessor to the Throne, as the Power and Policy of Earl *Godwin* and *Livingus* the Bishop of *Worcester*.

Anno Dom.
1065. fol. 511.
b. n. 30.

Ingulph, Secretary to *William* when Duke of *Normandy*, reports the Donation of *England* to him very confidently, and as if in those times such Gifts were not much questioned: *Anno eodem Rex Edwardus senio jam gravatus, cernens Clitonis Edwardi nuper defuncti Edgarum, Regio solio minus idoneum tam corde quam corpore, Godwini-que comitis multam malamque sobolem, quotidie super terram crescere, ad cognatum suum Willielmum Comitem Normaniæ animum apposuit, & eum sibi succedere in Regnum Angliæ voce stabili sancivit:* In the same year, King *Edward* growing infirm with Age, perceiving *Edgar*, the Son of the late deceased *Edward Ætheling*, neither in Mind, or Body, fit for the Government, nor to bear up against the growing Power and Malice of *Godwin's* Sons; thought upon his Cousin *William*, Earl of *Normandy*; and by a firm Declaration decreed he should

should succeed him in the Kingdom. King *Stephan* declares the same thing in his * Charter of Priviledges to *Westminster* Abby ; *Stephanus Dei Gracia Rex Anglorum, &c. Sciatis me, pro Redemptione Animæ meæ, & patris, & matris meæ, necnon & Beate memoriæ Regis Edwardi Cognati mei, Qui Adum meum Liberosque illius in Regnum suum adoptivos heredes instituerat. Stephen King of England, &c. Know ye, that for the Redemption of my Soul, and the Soul of my*

* *Ex autographo.*

A

Father and Mother, and of my Kinsman King *Edward* of Blessed Memory, who Constituted my Grandfather, (*William* the Conqueror) and his Children *Adoptive Heirs* of his Kingdom.

The Norman Succession.

B

FROM what hath been said, the Pretences and Causes of *William*, Duke of *Normandy*, his succeeding *Edward* the Confessor, and enjoying the Crown of *England*, are very evident ; as also, are the same to his Dukedom. [1.] He was the only Son of his Father *Robert* ; who going on Pilgrimage to *Jerusalem*, called together the Noblemen of his Dukedom, and brought his Son *William*, though Illegitimate, before them, and earnestly exacted of them, that in his stead they would chuse him their Lord : who, though but a Child, they forthwith, according to the Decree of the Duke, acknowledged him for their Prince and Lord, swearing Fealty unto him.

[1.] *Gul. Gem. lib. 5. c. 12.*

C

[2.] *Robertum ergo Archiepiscopum cum optimatibus suis Ducatus acceperat, & illis velle se appetere Jerosolimitanam peregrinationem manifestavit, exponens autem eis Willielmus filium suum, quem unicum apud Falesiam genuerat ab iis attentissime exigebat, ut hunc sibi loco sui dum eligerent, Qui licet sub tenerrima detineretur ætati puerili juxta Decretum Ducis protinus cum prompta viracitate collaudavere Principem & Dominum, pargentes ei fidelitatem non violandis Sacramentis.* And *R. Hoveden* affirms it to have been the Custom in *Norway* (from whence the *Normans* came) for Bastards to inherit, and that in his time it was so. [3.] *Consuetudo Regni Norveici est usque in hodiernum diem, quod is qui alicujus Regis Norveici dignoscitur esse filius, licet sit spurius & de ancilla genitus, tantum sibi jus vendicat in Regnum genitus, & ideo fiunt inter eos prælia indefinenter, donec unus eorum vincatur, & interficiatur.* And so it happened between the Curators of Duke *William* in his Nonage, and the Petenders as Heirs to his Grandfather of the Dutchy of *Normandy*.

[2.] *Ibid.*

D

[3.] *Consuetudo Regni Norveici est usque in hodiernum diem, quod is qui alicujus Regis Norveici dignoscitur esse filius, licet sit spurius & de ancilla genitus, tantum sibi jus vendicat in Regnum genitus, & ideo fiunt inter eos prælia indefinenter, donec unus eorum vincatur, & interficiatur.* And so it happened between the Curators of Duke *William* in his Nonage, and the Petenders as Heirs to his Grandfather of the Dutchy of *Normandy*.

[3.] *R. Hov. f. 425. a. n. 20.*

E

The same Right of Succession, as Testamentary Heir to his Father, *William Rufus* had to the Crown of *England*. [4.] *Metuens Rex ne in Regno tam diffuso repentina oriretur turbatio, epistolam de constituendo Rege fecit Lanfranco Archiepiscopo suoque sigillo signatam tradidit Gulielmo Rufo filio suo, jubens ut in Angliam transfretaret continuo.*

[4.] *Fragm. de vita Gul. Conquestore, f. 32. n. 30. Ord. vit. fol. 659. C. D.*

F

This was done a little before the Conquerors [5.] Death : and he did it for that his Son *William* always stuck close to him, and had in every thing, according to the utmost of his power, been dutiful and obedient.

[5.] *Ibid. n. 20, 40. Ord. vit. ut supra.*

[6.] *Rufus*

[6.] *Ib d. f.*
663. B.

[7.] *Flor. Wig.*
f. 642.

[8.] *De gest.*
Reg. f. 67. n.
20. *Paru. f.*
14. n. 10.

[9.] It was
then the Cu-
stom for Bi-
shops to make
Knights.
September 27.
f. 642. Anno
Dom. 1088.

[1.] *Malms. ut*
sup. lin. 49.

[2.] *Flor. Wig.*
ut supra.

These English
were Stipen-
diary Soldi-
ers, *Paru. f.*
15. n. 10.

[6.] *Rufus* brought his Fathers Epistle, by which he had Constituted him King of England, to *Lanfranc* Arch-Bishop of Canterbury: who, having read it, hasted with him to London, and Consecrated him King in the old Church of St. Peter at Westminster on the [7.] 26th. of September, his Father dying the 9th. of the same Month. [8.] *Willielmus Willielmi filius*, saith *Malmsbury*, a *patre ultima valetudine decumbente in Successorem adoptatus est, accessit & favori ejus maximam rerum momentum, Archiepiscopus Lanfrancus, eo quod eum nutrierat, & militem fecerat: quo Authore annitente, Die Sanctorum Cosmæ & Damiani Coronatus est.* That is, *William* the Son of *William* was by his Father, in his last Sickness, adopted his Successor: but it was matter of great moment, and the greatest Addition to his Success, that Arch-Bishop *Lanfranc* had Educated him, and made him a [9.] Knight; by whose Authority and Endeavour he was Crowned on the day of *Cosma* and *Damianus*. A

Florence of Worcester, who only says that he was Consecrated King at Westminster by Arch-Bishop *Lanfranc*, hath noted, that not long after his Coronation there arose great Discord and Contention between the chief Men of England: for part of the Great and Noble Normans favoured King *William*, but it was the least; and the other part of them favoured *Robert* Duke of Normandy, which was the greatest. *Odo*, who [1.] mortally hated *Lanfranc*, headed the Duke's Party, and *Lanfranc* headed the King's; who, with the King, [2.] *Congregato quantum ad presens poterat Normanorum, sed tamen maxime Anglorum, equestri & pedestri (licet mediocri) exercitu, &c.* Having raised such an Army as he could of Horse and Foot of Normans, but the greatest part English; (though but a mean one) and by using the common Bait of Liberty, declaring he would relax the rigid Laws, give free leave of Hunting, &c. Also by insinuating into *Roger* Earl of *Arundel* and *Shrewsbury*, the chief Person for the Duke, next unto *Odo* Bishop of *Baieux* and Earl of *Kent*, brought him off to his Party. By these means he brake the Force of his Enemies, and ever after ruled by an Army. More of this Story may be seen in *Eadmer. Ord. Vit. f. 666. &c.* *Florence of Worcester*, and *Malmsbury*, in the places before cited, who all lived at the time. B C D

Here we see *Rufus* claimed as Testamentary Heir; * and by reason of that Claim was advanced to the Throne, by the Assistance of *Lanfranc's* and the Bishops Faction, who then swayed the People, and ruled by the help of an Army ever after. Whoever rightly considers this Story, cannot call it an Election. E

* The Conqueror by his Will, gave Normandy to his Eldest Son *Robert*, and England to his Second Son *William*. It was a frequent and common practise of the great Normans that had great Estates both in England and Normandy, to leave their ancient Estates in Normandy to their Eldest Sons, and their Estates in England to their second or younger Sons; as *William Fitz-Osbern*, *Roger de Monte-Gomerico*, &c. *William* the Eldest Son of *William Fitz-Osbern* Earl of *Hereford*, &c. had Breteuil or Breteville, (from whence he was called *William de Breteville*) and all his Fathers Lands in Normandy, and his second Son *Roger* was Earl of *Hereford*, and had all his Lands in England. So *Robert de Belismo* Eldest Son to *Roger Montgomery* had *Belism* Castle, and all the Lands and Castles which were his Fathers in Normandy, and his second Brother *Hugh* had the Earldoms of *Arundell*, and *Shrewsbury*, with all his Fathers Lands and Honours in England, which also *Robert* enjoyed after the death of his Brother *Hugh* without Issue. F

After the death of *Rufus*, *Florence of Worcester* only says, that *Henry*, his third Brother succeeded him; and that the day he was Crowned by *Maurice* Bishop of *London*, he gave great Liberties to the Church and Kingdom; and commanded that King *Edward's* Laws should be observed, with such Amendments as his Father had amended them. And further says, [3.] that very many great Men sent for Duke *Robert* over, and promised him the Crown and Kingdom: and coming, they did some of them adhere to him, and [4.] others, dissembling their Kindness and Affection, stayed with King *William* until they had an opportunity of shewing it. But the Bishops, the Common Soldiers, and *English* stuck close to King *Henry*; by whose means he raised a very great Army, and were ready to fight for him; when they came to an Agreement by the Mediation of the Wise Men of both Parties.

Fol. 650 l. 9.
Flor. of Wor.
died 19 Hen. 1.

[3.] *Ibidem*,
lin. 27.

[4.] *Ibidem*,
lin. 41.

Eadmer tells us, that most of the great Men either did, or were ready to revolt from King *Henry*; but *Anselm* Arch-Bishop of *Canterbury*, who had given him great Assistance in raising his Army, upon great Promises made, that all the Church-Affairs should be left to his direction and disposing, and that he would for ever after obey the Decrees and Commands of the Pope, procured the great Men to assemble; and then so wheedled and cajoled them and their Army, that he altered their Intentions: And it was from his Fidelity and Industry that *Henry* lost not the Kingdom.

Fol. 59. n. 10,
20, 30.

Eadmer was
Anselm's Chap-
lain at this
time.

This King *Henry* was a plain right down Usurper, he had no pretence of Donation, no Testamentary Right from his Father; and therefore, as [5.] *Malmsbury* shews us more particularly, he was advanced by a Faction; there being only five great Men, *Robert Fitz-Haymon*, *Richard de Redvers*, *Roger Bigot*, *Henry* Earl of *Warwick*, and *Robert* Earl of *Mellent*, his Brother, all Normans that favoured him: and by the contrivance of *Henry* Earl of *Warwick* he was elected King. All others sent privately to Duke *Robert* to come and be their King, or openly reproached *Henry*. This was an excellent Election made by a Faction and an Army, and perhaps with a bawling multitude after them; and indeed, there could be no other Election than such an one as this, for *Rufus* was slain in *New Forest* on the 2d. of *August*, being *Thursday*; and *Henry* was Crowned on the 5th. of *August*, being *Sunday*: So that it was impossible for all that were, or ought to be concerned in such an Election, all the Kingdom over to have notice, meet, and dispatch that Business in two days time.

[5.] Fol. 88.
a. n. 20, 40.

Flor. Wigorn.
f. 649. l. 27.

These Historians lived at the very time these things were done. It is true he says in his own Charter, [6.] That he was Crowned King by the Common Council of the Barons of *England*. *Sciat is me misericordia Dei, & Communi Concilio Baronum Regni Angliæ ejusdem Regni Regem Coronatum esse*. And he must say this, or nothing; for no other Pretence or Title he could have; and there never was any other Usurper in his Circumstances, but must say so, or some other thing, to make out a Title. King *Stephen*, in his Charter of Liberties, says, He was elected, *A Clero & Populo*. King *John*, in his Charter of Fees of the Seal, affirmed himself right Heir to the Crown, when *Arthur* Duke of *Britain*, and his Sister *Eleanor*, Son and Daughter to his Elder Brother *Jeffrey*, were then living; and they

[6.] *Paris*,
Anno Dom.
1100. fol. 55.
lin. 42.

they were both vain Affirmations, as will appear in their several Stories.

[7.] *Paris*
died, *An.Dom.*
1259. *Bromp-*
ton, 1326.
Westminster,
1377.
Knighton,
1380.
[8.] *Col.* 2374.
n. 10.

Some later Historians than these, as [7.] *Matthew Paris*, who wrote above an hundred years after them. *Mat. Westminster*, and *H. n. de Knighton*, and *Brompton*, who wrote at least two hundred and fifty years after them; all say he was elected: But only *Knighton*, amongst them all, tells us the most considerable reason why *Robert*, his elder Brother, was rejected. [8.] *Robertus*, says he, *semper contrarius & adeo innaturalis extiterat Baronibus Regni Angliæ, quod plenario consensu & consilio totius Communitatis Regni IMPOSUERUNT EI ILLEGITIMITATEM, QUOD NON FUERAT PROCREATUS DE LEGITIMO THORO WILLIELMI CONQUESTORIS, UNDE UNANIMI assensu suo ipsum refutaverunt, & pro rege omnino recusaverunt & Hen. fratrem in Regem erexerunt.* *Robert* was always averse, and so harsh to the Barons of *England*, that they, by full Consent and Advice, voted him *Illegitimate*, because he was not begotten lawfully by *William the Conqueror*; and for that reason, by unanimous Assent, they refused him, and set up *Henry* his Brother to be their King. From this Passage of *Knighton*, we see the Community, or Baronage of all *England*, fixed the Right of Succession in the Legitimate Right of Blood; and therefore this King, his two elder Brothers being dead without Issue, desired to secure the Succession unto his Lawful Issue by Right of Blood. To that end, [9.] all Freemen of *England* and *Normandy*, of what Order and Dignity soever, and of whatsoever Lord they held, or were *Fendatories* to, were forced to do *Homage*, and swear *Fealty* to his Son *William*, then but twelve years old.

[9.] *Malmf.*
fol. 93. a. lin.
36.

[1.] *Ibid.* fol.
99. a. n. 40.

[2.] *Ibidem.*

And in the [1.] twenty seventh of his Reign, he caused all the great Men of *England* (after the death of his Sons, *William* and *Richard*) to recognize *Maud* the Empress, his Daughter, Queen; to whom the [2.] only Lawful Succession was due from her Grandfather, Uncle, and Father that were Kings; and from her Mother many Generations.

[3.] *Malmf. f.*
100. a. n. 40.

In the thirty first of King *Henry*, [3.] he and his Daughter coming into *England*, at a great Meeting of the Nobility, or Parliament, at *Northampton*, those which before had sworn Fealty, renewed their Oaths to her; and those which had not done it before, then did it.

[4.] *Paris, f.*
61. n. 50. f. 62.
n. 10, 20.
[5.] *Ibid.* 61.
lin. ult 62 lin.
1. &c. *ibid.*
lin. 23.

[6.] *Ibid.* f.
63. n. 10.
[7.] *Ibid.* f.
73. n. 20.

Paris tells us, that the Clergy, and Great or Noble Men made Conditions with *Henry*; who promised them what is before related: and in that gave them satisfaction. But as all Usurpers ever did, so he changed his Mind; and his Canting Speech had no other effects than to enslave them: [4.] for with a feared and cauterized Conscience he had obtained the Kingdom, and usurped upon his Brother *Robert*, who had manifest Right; [5.] impudently violating the Laws, and Promises, by which he had drawn in all Men to serve him: and afterward, taking him Prisoner, caused his Eyes to be [6.] pulled out, and kept him in Prison [7.] twenty four years, until he died.

[8.] King

[8.] King *Henry* having thus provided for the Security of his Daughter *Maud*, being asked in his Sickness by *Robert Duke of Gloucester*, and the Noblemen that then were with him, about a Successor. *Filie* [9.] *omnem terram suam citra & ultra mare, Legitima & perenni successione adjudicavit.* Adjudged his Daughter his Lawful Successor in all his Territories.

[1.] *Radulphus de Diceto*, Dean of Saint *Paul's*, who died, *Anno Dom. 1210.* says, that *Hugh Bigot*, Steward of the Kings Household made speed out of *Normandy* (where the King died) into *England*, and made Oath before the Arch-Bishop of *Canterbury*, that King *Henry* upon his Death-bed, upon some differences which happened between him and his Daughter the Empress, did dis-inherit her, and made *Stephen Earl of Boloign* his Heir. Whereupon *William Arch-Bishop of Canterbury* giving too much credit to the words of the Steward, Consecrated *Stephen Earl of Mortaigne* King at *Westminster*. If this Story be true, he was Testamentary Heir, and had a Testamentary Right; and in that Right he was made King: But be this Story true or false, his Advancement to the Throne was as followeth.

Notwithstanding, all the Nobility, and amongst them, King *Stephen* himself, had sworn Fealty to *Maud* the Empress; yet by the Interest of his Brother [2.] *Henry Bishop of Winchester*, and the Popes Legat, (without which he could have done nothing) he was made King: he brought off *Roger Bishop of Salisbury*, a great and powerful Prelat; also *William de Pont-Arch*, Keeper of King *Henry's* Treasure, which was [3.] 100000 *l.* in Money. And by his own Dexterity, the Artifice of his Brother, and *Roger Bishop of Salisbury*, and the advantage of this Money, he enclined the minds of the Noblemen much towards him, and to secure himself raised an Army mostly of *Flemings* and *Britains*. At his [4.] Coronation were only three Bishops, the Arch-Bishop of *Canterbury*, the Bishops of *Winchester* and *Salisbury*, no Abbots, and few Noblemen.

I think this looks not like an Election; [5.] yet he in his Charter of Liberties, which he chiefly granted to the Church, says, he was elected by the Assent of the Clergy and Laity, and confirmed by the Pope; though in his Charter of Priviledges to *Westminster-Abby*, he says, that his Grandfather, the Conqueror, and his Children were Adoptive Heirs of *Edward the Confessor*.

Malmsbury recites the whole Charter, and although King *Stephen* says there, of himself, *Ego Stephanus Dei Gracia, assensu Cleri, & Populi in Regem Angliæ Electus, &c.* I *Stephen* by the Grace of God, elected King of *England* by the Clergy and People. Yet the Historian, within two Lines after the Recital of the Charter, hath this Passage, wherein he affirms, *Stephen* came not lawfully to the Crown; * *Liceat mihi pace Mansuetissimi hominis, verum non occulere: Qui si legitime fuisset Regnum ingressus, & in eo administrando, credulas aures malevolorum susurris, non exhibuisset, parum ei profecto ad Regiæ personæ decorem defuisset:* By the leave of a most mild Man, I my justly discover Truth. If he had lawfully possessed the Kingdom, and in his Government had not listned to the Whispers of Evil Men, as to the Comeliness of his Person, he might have been a King.

[8.] *Malmsf. Hist. Novell. f. 100. b. n. 30.*

[9.] *Ibid. hic f. 105. b. n. 40. Omne Regnum Angl. simul & Ducatum Normannie.*

[1.] *Pitf. in that year, Col. 505. n. 40, 50.*

King *Stephen.*

[2.] *Malmsf. Histor. Novell. f. 101. a. n. 10.*

[3.] *Ibid. n. 40, 50.*

[4.] *Ibidem, n. 20.*

[5.] *Ibidem, 101. b. n. 10.*

* *Ibid. n. 40. lin. 44.*

[6.] *Ibidem*,
105. b. n. 20,
30, 40.
Malmsbury
says he was
present in this
Council.
Ibid. lin. 26.
Maud the
Empress.
[7.] *Ibid.* f.
106. a. lin. 1,
2, 3.
[8.] *Ibid.* f.
107. n. 10, 20,
30, 40.
[9.] *Ibid.* f.
108. a. n. 30,
40, 50.
Hen. 2d.
[1.] *Gervas*
Dorob. Col.
1375. n. 10.
Paris, f. 86.
n. 10.
Hoveden, f.
281. a. lin. 21.

[2.] *Fol.* 246.
n. 10. *Anno*
Dom. 1153.
This Accord
was made at
Wallingford,
by the dili-
gence of
Arch-Bishop
Theobald and
Bishops of the
Kingdom.

[3.] *Ibid.* n.
30. *Anno Dom.*
1154.
Hen. 2d.

Afterwards, *Stephen* using the Bishops roughly, lost his Brother *Henry's* favour; who by his Legantine Power, [6.] called a Council of the Clergy at *Winchester*, to consult of the Peace of the Kingdom: Where they conclude, that the Right of chusing and Ordaining Kings chiefly belonged to them. And therefore, having first called upon God, they chose *Maud* the Empress Queen. [7.] *Ad Cleri jus potissimum spectat principem eligere & ordinare, invocata itaque in auxilium Divinitate, filiam Regis, in Angliæ Normanniæque Dominam eligimus, &c.*

But not long after, [8.] being displeased with *Maud*, he entred into a Confederacy against her; and, [9.] as Legat, called another Council at *Westminster*, in which was read the Popes Bull in favour of *Stephen*; who was then advanced to the Throne again. And the Kingdom being wasted and destroyed with continual Wars, [1.] the Arch-Bishop, this Legat, and the Bishops mediate a Peace between *Stephen* and *Henry* Duke of *Anjou*, Son to the Empress: by which it was agreed, that *Stephen* should adopt *Henry* his Son, who, after his death, should enjoy the Crown, and *Stephen* quietly to wear it during his Life, &c.

Which Agreement is most fully and clearly related by *Matthew* of *Westminster*: [2.] *Rex Stephanus omni harede viduatus, præter solummodo Ducem Henricum, recognovit in Conventu Episcoporum & aliorum de Regno optatum, quod Dux Henricus jus hereditarium in Regnum Angliæ habebat, & Dux benigne concessit, ut Rex Stephanus tota vita sua suum Regnum pacifice possideret. Ita tamen confirmatum est, quod ipse Rex & Episcopi tunc presentes cum ceteris Regni optimatibus jurarent, quod Dux Henricus post mortem Regis, si illum superviveret, Regnum sine aliqua contradictione obtineret*: That is, King *Stephen* not having an Heir, except only Duke *Henry*, did acknowledge in an Assembly of the Bishops and other Chief Men of the Kingdom, That Duke *Henry* had the Hereditary Right to the Kingdom of England; and the Duke kindly granted that King *Stephen* should, during his Life, peaceably enjoy his Kingdom. The Agreement was so confirmed, that the King himself, and the Bishops then present, with the rest of the best Men of the Kingdom sware, that Duke *Henry*, after the death of the King, if he should out-live him, should enjoy the Kingdom without all contradiction.

This Accord afforded Quiet and Tranquility both to *Henry*, and the Nation, with certain Confidence of enjoying the Kingdom after the death of *Stephen*; which he did. But as to his Right and Title, it added nothing to that, it being Hereditary: for he was acknowledged the true Heir by his Adversary *Stephen*, in the presence of the Bishops, and the best Men of the Kingdom: who all likewise acknowledged it, by owning the Accord, and swearing to observe it.

On the [3.] 24th. of October, the year following, King *Stephen* died, and on the 19th. of December following, *Henry* was Crowned at *Westminster* by *Theobald* Arch-Bishop of *Canterbury*. And *Maud* the Empress, being satisfied with the Enthroning of her Son, quitted her Pretensions.

King

King Henry II. dying in France, July 7. 1189. [4.] his eldest Son and Heir, Richard, was by Walter Archbishop of Rouen girt with the Sword of the Dukedom of Normandy, on the 20th. of the same Month, in the presence of the Bishops, Earls, and Barons of Normandy. And before his coming into England, [5.] every Freeman of the whole Kingdom, by the Command of his Mother Alienor, sware Fealty to Richard, King of England, Son of King Henry, as to their Liege Lord, against all Men.

[4.] Hered. f. 372. b. n. 1. 40. 50. f. 373. a. lin 7.

A Afterwards [6.] coming to London, *Congregatis ibi Archiepiscopis, Episcopis, Comitibus, Baronibus, et copiosa Militum multitudine, in occursum ejus, quorum Consilio, et assensu, ipse Dux, 3. Nonas Septembris, Consecratus et Coronatus est apud Westmonasterium in Regem Angliæ à Baldwino Cantuariensi Archiepiscopo, &c.* The Archbishops, Bishops, Earls, Barons, and a copious multitude of Knights met him: by whose Advice and Assent, the [7.] Duke was Crowned King of England by Baldwin Archbishop of Canterbury, many other Bishops there named assisting. Et omnibus fere Abbatibus, et Prioribus, et Comitibus, et Baronibus Angliæ astantibus. Almost all the Abbots, Priors, Earls and Barons of England being Spectators.

[5.] Ibid. n. 50. & b. lin. 7. Quod fidem portabit Regi Angliæ Richardo, Regii Hen. filio, &c. [6.] Ibid. f. 374. n. 10.

[7.] Of Normandy.

B Ralph de Diceto, then Dean of St. Pauls, London, who in the Vacancy of that Church and Bishoprick, [8.] supplied the Office of the Bishop at King Richard's Coronation, hath this passage, *Comes itaque Pictavorum Richardus HÆREDITARIO JURE PRÆMOVENDUS in Regem, post tam Cleri, quam Populi solemnem et debitam Electionem involutus est triplici Sacramento, &c.* Therefore Richard, Earl of Poictou, being by Hereditary Right to be made King, after the solemn and due Election, as well of the Clergy as the Laity, sware to three things. [9.] *scilicet, Quod opem impendet pro viribus, ut Ecclesia Dei, populusque Christianus, veram pacem obtinent, quod interdicet omnibus Rapacitatem, quod in judiciis equitatem præcipiet, & misericordiam.* That is to say, That he would use his utmost power that the Church of God, and Christian People might enjoy true Peace: That he would interdict Rapine to all Men: That he would command Mercy and Equity, to be done in Judgments.

[8.] Rad. de Diceto. Col. 647. n. 40, 50.

[9] Ibidem.

Richard the First his Oath.

D What can this solemn and due Election signifie here? What can it mean further, than that Richard being King by Hereditary Right, was so owned and recognized by the Clergy and Laity?

See the word *Electus* in the Glossary.

E John, in his Brother Richard's Life-time, had a mind to be King; and taking advantage of his Absence in the Holy Land, and his Imprisonment in Germany, practised with the Nobility and Londoners to that purpose. The last sware faithful Service to their Lord, King Richard, and to his Heirs; and if he should die without Issue, *Ut reciperent Comitem Johannem fratrem Richardi Regis in Regem & Dominum.* That they would receive Earl John, the Brother of King Richard, for their King and Lord: and swore Fealty to him against all Men, saving their Fealty to his Brother King Richard.

Hoved. f. 398. b. n. 30. 40. 50. &c. 399. b. n. 40. An. Dom. 1191.

F Two years after ward, confederating with the King of France against his Brother, and being assisted by him, he returned into England, and brought many Strangers with him: and coming to London, demanded the Kingdom of the Archbishop of Rouen, who was then Justiciary and the other Justiciaries of England, & *Fidelitates Hominum Angliæ*, affirming the King of England, his Brother, was dead. But not believing him, they and the other great Men of the Kingdom rejected him.

Ibid. f. 412. a. n. 40. 50. Anno Dom. 1193.

Then, swelling with Fury, he fortified his Castles and Places of Strength, and seized the Crown-Lands. Many came in unto him; but being deceived; they were punished according to their deserts.

Ibid. b. lin. 1.

[9.] *Ibid.* f.
417. b. n. 30.
Anno Dom.

1191.
[1.] *Ibid.* f.
418. a. n. 40.
[2.] *Ibidem*,
b. lin. 6.

[3.] *Ibidem*,
n. 20.

[4.] *Ibid.* f.
428. a. n. 20.
Anno Dom.
1195. 6 Ric.

[5.] *Ibid.* f.
449. b. lin. 37.

[6.] *Fol.* 450.
b. n. 10. King
Richard died,
Apr. 6. 1199.

[7.] *Ibidem*,
n. 40.

[8.] *Homines*
Regni could be
no other, see-
ing Fealty and
Homage was
due only from
such as held
Lands subject
to that Ser-
vice.

[9.] *Ibidem*,
n. 40.

[4.] *Ibidem*,
n. 50.

* *F.* 196. n. 20.

And for these and other [9.] Treasons committed the year following; as combining with the King of *France*, and offering great Sums of Money to the Emperor to keep King *Richard* in Prison, and making new [1.] Disturbances in the Nation. [2.] *Per Commune Consilium Regni, Definitum est, quod Comes Johannes disaisretur de omnibus Tenementis suis in Anglia.* By the Common Council of the Kingdom it was decreed he should be disseized of all he held of the King in *England*. And presently all his [3.] Castles were besieged and taken from him.

Yet for all this, the next year King *Richard* [4.] pardoned his Brother *John*, and restored to him the Earldom of *Moreton*, or *Mortaigne*, the Honour of *Eye*, and Earldom of *Gloucester*, except the Castles; and for his other Earldoms and Lands, allowed him yearly eight thousand Pounds of *Anjou-Money*.

And in the last year of his Reign, [5.] *Cum Rex de vita desperaret, divisit Johanni fratri suo Regnum Angliæ, & omnes alias terras suas, & fecit fieri prædicto Johanni fidelitates ab illis qui aderant, & præcepit ut traderentur ei Castella sua, & tres partes Thesauri sui.* When the King despaired of Life, he devised to his Brother *John* the Kingdom of *England*, and all other his Lands, and made all present swear Fealty to him, and commanded that his Castles and three parts of his Treasure should be delivered to him.

Richard being dead, [6.] *John* stayed in *Normandy* (where, by *Walter* Archbishop of *Roven*, he was girt with a Sword of that Dutchy, April 25. on *St. Mark's* day) and sent *Hubert* Archbishop of *Canterbury*, and the Popes Legat, and *William Marshal* Earl of *Strigvil*, into *England*, to keep the Peace; together with *Jeffrey Fitz Peter*, Justiciary of *England*, and other Barons of the Kingdom. [7.] *Qui fecerunt homines regni tam de Civitatibus, quam de Burgis, & Comites, & Barones, & libere tenentes jurare fidelitatem & pacem Johanni Normannorum Duci filii Henrici Regis, filii Matildis Imperatricis contra omnes homines.* Who made the [8.] Homagers of *England*, as well of Cities, as Burroughs, and Earls, Barons, and free Tenents, to swear Fealty and Peace to *John* Duke of *Normandy*, the Son of King *Henry*, the Son of *Maud* the Empress, against all Men.

[9.] Notwithstanding this, all the Bishops, Earls, and Barons which had Castles, Manned, Victualled, and stored them with Arms. But *Hubert* the Archbishop, *William Marshall*, and *Jeffrey Fitz-Peter*, Justiciary of *England*, met at *Northampton*, and called before them those which they most doubted: *David*, Brother to the King of *Scots*, *Richard* Earl of *Clare*, *Ranulph* Earl of *Chester*, *William* Earl of *Tutesbury*, and *Walran* Earl of *Warwick*, *Roger* Constable of *Chester*, *William de Mowbray*, and many other Earls and Barons; to whom they promised and engaged, that *John* Duke of *Normandy* should restore to every Man his Right, if they would keep Faith and Peace with him [4.] *Sub hac igitur Conventione supradicti Comites &c.* According to this Agreement, the said Earls and Barons swore Fealty, and faithful Service to *John* Duke of *Normandy*, against all Men. This was done while he was in *Normandy*.

Mat. Paris in the relation of this particular Matter differs somewhat from *Hoveden*; he says, * That when Archbishop *Hubert*, *William Marshall*, and *Jeofrey Fitz-Peter*, and other great Men of the Kingdom, called before them at *Northampton* all the chief Nobility they suspected, or most doubted of; *Fecerunt illis Fidem, quod comes Johannes, Jura sua redderet Universis*: They promised Earl *John* should restore to every one their Rights. *Sub tali igitur Conventione, Comites, et Barones, Comiti memorato fidelitatem contra omnes homines Juraverunt.* Therefore upon such Condition or Agreement, the Earls and Barons swore Fidelity to the before-mentioned Earl, against all Men. These

A

B

C

D

E

F

These *Rights* (if the Historian had noted them) in all probability were no other than their *own* large *Demands*, which they called so; and whatever they were, *Earl John* was forced to grant them, for at that time he was an *Usurper*, and the *Barons*, or *major part* of them, always *Bargained* and made *Terms* with *Usurpers* to their own *Advantage*, and *Disadvantage* to the *Crown*, as the *Constitution* of the *Government* was then, as they had done with *Henry the First*, and *King Stephen*.

A He might have been in as much danger of being laid aside in *England*, as in the *Dominions* beyond the *Sea*, if this promise had not been made: For the * *Princes of Anjou, Turain, and Main*, adhered to *Arthur* as their *Liege Lord*, saying it was the *Law* and *Custom* of those *Countries*, That *Arthur* the Son of the elder Brother, should succeed his *Uncle* in the *Patrimony* and *Inheritance* due to him; which his Father *Jeofry* should have enjoyed, if he had out-lived *King Richard*.

* *Ibid.* n. 3046.

B And *John de Curci* an *English Norman*, was * thrown out of his *Earldom* of *Ulster* in *Ireland*, and judged to perpetual Imprisonment. *Quia fuit Rebellis Johanni Regi Anglie, et noluit sibi facere Homagium, et vituperaverit eum de Morte Arthuri Legitimi Hæredis*; Because he was a *Rebel* to *King John*, and would not do *Homage* to him, and charged him with the *Death* of *Arthur* the *Lawful Heir*.

* *Annal. Hibern. A. D. 1204. Camb. Britan. f. 797.*

[5] On the 25th of *May* following, *Duke John* crossed the *Seas* from *Normandy* into *England*, and the next day came to *London*; and there were *Convened* in expectation of him, *Hubert* *Archbishop* of *Canterbury*, *John* *Arch-Bishop* of *Dublin*, *William* *Bishop* of *London*, *Gilbert* of *Rochester*, *John* of *Norwich*, *Hugh* of *Lincoln*, *Eustace* of *Ely*, *Godfrid* of *Winchester*, *Henry* of *Exeter*, *Sefrid* of *Chichester*, *Jeffrey* of *Coven-*
C *try*, *Savaric* of *Bath*, *Herbert* of *Salisbury*, *Philip* of *Durham*, *Roger* of *St. Andrews* in *Scotland*, *Henry* of *Landaff*, *Bishops*: *Robert* *Earl* of *Leicester*, *Richard* *Earl* of *Clare*, *William* of *Tutesbury*, *Hamlin* de *Warenn*, *William* of *Salisbury*, *William* de *Strigvil*, *Walran* of *Warwick*, *Roger* *Bigot*, *William* de *Arundel*, *Ranulph* de *Cestre*, *Earls*: and many *Barons*.
D And then *Hubert* *Arch-Bishop* of *Canterbury* *Consecrated* and *Crowned* the said *John* *Duke* of *Normandy*, *King* of *England*, in the *Church* of *St. Peter* at *Westminster*, on the 27th of *May*, being *Ascension Day*.

[5.] *Ibid.* f. 451. a. n. 20.

Not one word here of any *Election* by, but only a *Submission* from the *Barons* *Spiritual* and *Temporal*, to *King John*; and a *Recognition*, that he was their *King*. And all this related by *Hoveden*, in all probability an *Eye-witness* of this *Transaction*.

E Indeed *Matthew Paris*, who died *Anno Dom. 1259*. was then either unborn, or so young as not with *Judgment* to take sufficient notice of this *Affair*, relates it thus; [6] *Congregatis in adventu ejus Archiepiscopis, Episcopis, Comitibus & Baronibus, atque aliis omnibus, qui ejus Coronationi interesse debuerant; Archiepiscopus stans in medio omnium, dixit, audite universi, noverit discretio vestra, quod nullus prævia ratione alii succedere habet Regnum, nisi ab universitate Regni unanimiter invocata Spiritus Gratia electus, & secundum morum suorum eminentiam præ-*
F *electus, ad exemplum & similitudinem Saul primi Regis inuncti, quem præposuit Dominus populo suo, non Regis filium, nec de Regali stirpe procreatum, similiter post eum David Jesse filium, Hunc quia strenuum, & aptum Dignitati Regiæ; illum quia sanctum & humilem, ut sic quia cunctos in regno supereminet strenuitate, omnibus præsit, & potestate & regimine, verum si quis ex stirpe Regis defuncti aliis prepolleret, pronius & promptius, in electionem ejus est consentiendum. Hæc idcirco diximus, pro inclyto Comite Johanne, qui præsens est, frater illustrissimi Regis nostri Ri-*

King Richard died, *Anno Dom. 1199.* [6.] *Paris. f. 197. n. 20.*

chardi

[] Ibidem,
n 30. 40.

Note here
Successione he-
reditaria eli-
gere, which
can signifie no-
thing, but to
recognize and
acknowledge
him King by
Hereditary
Succession.

The Reason
why the Arch-
bishop pre-
tended this
was an Ele-
ctive Kingdom

chardi jam defuncti, qui herede caruit ab eo egrediente, qui providus & strenuus & manifeste nobilis, quem nos, invocata Spiritus Sancti Gratia, ratione tam meritorum, quam Sanguinis Regii, unanimiter eligimus universi, [7] nec ausi erant alii super his adhuc ambigere, scientes quod Archiepiscopus sine causa, hoc non sic diffiniverat, verum Comes Johannes & omnes hoc acceptabant, ipsumque Comitem in Regem eligentes & assumentes exclamant, dicentes, vivat Rex; Interrogatus autem postea Archiepiscopus Hubertus, quare hoc dixisset, respondet se prasagamente conjecturare, & quibusdam Oraculis Edoctum & Certificatum fuisse, quod ipse Johannes Regnum & Coronam Angliæ foret aliquando corrupturus, & in magnam confusionem præcipitaturus, & ne haberet liberas habenas hoc faciendi, ipsum electione, non successione hereditaria, Elegi debere affirmabat. That is,

The Arch-Bishops, Bishops, Earls, and Barons, and all others (Officers, probably, required to be there) which ought to be present at his Coronation, meeting at London. The Arch-Bishop standing in the middle of them, said, 'Hear all of you, your Dis-
'cretion shall know, that no Man hath Right to succeed in the King-
'dom, unless, after seeking God, he be unanimously chosen by the Uni-
'versity of the Kingdom, (that is, those that are here said to meet at
'London.) And according to the Eminency of his Endowments, pre-ele-
'cted, according to the Example and Similitude of *Saul*, the first Anoin-
'ted King, whom God set over his People; not the Son of a King, or
'of the Royal Line. Likewise after him, *David* the Son of *Jesse*.
'This because stout and fit for Royal Dignity: the other because holy
'and humble. That so he which exceeded all Men of the Kingdom
'in Strength, or Prowess, should be set over all in Power, and Govern-
'ment. But if any of the Progeny of the dead King did excel others,
'they ought more readily to consent to the Election of him. These
'things we have therefore said in the behalf of the famous Earl *John*,
'who is here present, the Brother of our most illustrious dead King *Rich-
'ard*, that died without Issue of his Body; who is Provident, Stout,
'and manifestly Noble, whom we, having invoked the Grace of the
'Holy Spirit, have all of us unanimously chosen. Nor dare any others
'so much as doubt of these things, knowing the Archbishop had not
'thus decreed this Matter without Cause. But Earl *John*, and all
there acquiesced in what he had said; and chusing or acknowledg-
ing; and receiving him for their King, shouted, saying, *Let the
King live*. But Archbishop *Hubert* being asked afterward, why he
said these things? Answered, 'That he guessed, and was taught, and
'ascertained by certain Oracles, that *John* would bring the Kingdom
'and Crown into great Confusion: And therefore, lest he might have
'too much Liberty in doing it, he affirmed he ought to come in by
'Election, and not by Hereditary Succession: and so was Crowned as
before rehearsed.

This Learned Doctrine and Preachment of the Archbishop asserts not any Right of Election in the Convention of Bishops, Earls, Barons, and others required to be at the Coronation; but by his own Answer, when he was asked why he said these things, it clearly discovers a Design only, and Artifice in the Archbishop, to cause them to set up, and make *John* King: In which also he denies any such right of Election.

Hoveden hath none of, nor doth mention this Harangue; and therefore it seems rather to be an invention of *Matthem Paris*, than a Sermon of the Archbishop. Historians commonly make Speeches for other Men they write of. *Brompton* takes no notice of it; all he

says

says is, that [8.] *Johannes Lundoniam veniens in Festo ascensionis Domini, VI. Kalend. Junii, Anno Dom. 1199. ab Huberto Cantuariensi Archiepiscopo in Ecclesia B. Petri Westmonasterii inungitur & in Regem Angliæ coronatur, assistente Prelatorum, Comitum, Baronum, & aliorum Nobilium multitudine infinita.* John coming to London on Ascension-Day, the 27th. of June, 1199. was Anointed and Crowned King of England by Hubert Arch-Bishop of Canterbury, in St. Peter's Church in Westminster, an infinite multitude of Bishops, Earls, Barons, and other Noblemen assisting him. Not one word here, or in Hoveden, or Paris, of the ordinary People.

[8.] Col. 1281.
n. 40. 50.

And this Doctrine of the Arch-Bishop concerning the Election of Kings, if meant according to the Modern Understanding of it, was then new ; for Gervase, a Monk of Canterbury, in the year 1122. speaking of the Coronation of Henry the First, says, It was manifest, and known almost to all Men, that the Kings of England were only obliged and bound to God for the Possession of the Kingdom, and to the Church of Canterbury for their Coronation. [9.] *Manifestum est autem & omnibus fere notum, Reges Angliæ soli Deo obligari, & teneri ex ipsius regni adeptione, & Ecclesia Cantuariensi ex Coronatione:*

[9.] Col. 1338.
n. 30.

King John doth say in a [1.] Charter dated the first year of his Reign, that he came to the Crown, *Jure hæreditario, & mediante tam Cleri, quam populi unanimi consensu, & favore* : By Right of Inheritance, and by unanimous Consent and Favour, as well of the Clergy as Laity. This unanimous Consent of the Clergy and Laity was rather their Acknowledgment and Submission than any thing else : for, according to Hoveden's Relation of his coming to the Crown, which is the most exact extant, *They submitted and swore Fealty to him against all Men before he came into England, some time before his Coronation.* Nor could it be true that he had an Hereditary Right ; for Arthur Duke of Britain, Son and Heir to his elder Brother Jeffrey, and his Sister Eleanor, was then living : unless he had regard to the Donation of his Brother Richard, and so esteemed himself a Testamentary Heir.

[1.] Moderat.
Feod. Magn.
Sigilli.

After the death of King John, Henry the Third, his eldest Son, and Heir, by the Assistance of the Loyal Barons, was Crowned King, notwithstanding the Barons which had made War against King John, when they were reduced to great Streights, [2.] called out of France, Lewes, the King's Son ; to whom [3.] they, with the Londoners, swore Fealty, and advanced him to the Throne, and adhered to him against their own Prince ; [4.] until by force they were reduced, and he driven out of the Kingdom. This Treasonable calling in of Lewes, some that are pertinacious in the fancy of Election, will have it to be one. [5.] Indeed King Henry the Third at this time had no good Hereditary Title ; and therefore, *Johannes ex hac vita transmigravit, Henricum primogenitum suum regni constituens heredem.* And this Donation of his Father, or his making him his Heir, was his best Title ; for until that Eleanor, the Daughter of his Uncle Jeffrey, died, in the twenty fifth year of his Reign, he was not true Heir by Right of Blood. *Obiit Eleanora (saith Matthew Paris) filia Galfridi Comitum Britannix in clausura diuturna carceris sub arcta custodia reservata, fol. 574. n. 40. 25 H. 3. Anno Dom. 1241.*

Hen. 3d.
Paris, f. 289.
n. 10.

[2.] Ibid. 279.
n. 20.

[3.] Ibid. 282.
n. 10.

[4.] Ibid. 296.
n. 40. 297. n.
30. 299. n. 20.

[5.] Paris, f.
288. lin. 2.
Westmin f.
276. n. 40.

To

Edward the
First.

[6.] *Paris*, f.
488. n. 30, 40.

[7.] *Ibid.* f.
654. n. 20.

[8.] *Ibid.* f.
527. n. 40.
Anno Dom.
1240.

[9.] *Ibid.* f.
994. n. 50.

Edward the
Second.
Brief History
of Succession,
f. 6.

[1.] *Vid.*
Preamble to
the Ordinances
made by
an extorted
Commission
to certain Or-
dainers, dated
Mar. 16. 3 *Ed.*
2. but not
executed until
the fifth of
his Reign.
Ordinance,
13. 14. 16.
Rot. Parl.
5 *Ed.* 2. *Tbo.*
Walsingham, f.
113. *lin.* 48.

To *Henry* the Third succeeded his eldest Son *Edward* the First, though the *Lancastrians* said his second Son *Edmund*, commonly called *Crouch-Back*, was the eldest, and laid aside for his deformity; on whose Person was originally founded the great Contention between the two *Royal Houses* of *York* and *Lancaster*. But that he was really the eldest, there can be no pretence, however the *Lancastrians* imposed upon the People. For *Edward* was born [6.] *June* 16. 1239. and *Edmund* upon the [7.] 16th of *January*, 1245. being *Marcellus* his day, six years after. *Edward*, by that time he was a year old, was acknowledged the First-born of his Father, his Brother *Edmund* not then born. [8.] *Per idem tempus Rex Cives Londinenss, & quinque portuum custodes, & multos alios fecit jurare fidelitatem, & ligantiam Edwardo primogenito suo.* In the Letter from the Loyal, to the Rebellious Barons, he is stiled the First-born of King *Henry*. [9.] *Richardus Dei gratia Rex Romanorum semper Augustus, & Edwardus illustris Regis Angliæ primogenitus, &c.* And very frequently *Matthew Paris*, who lived at this time, and was Historiographer to his Father, calls him his First-born. So that there can be no doubt in History, that he was the eldest Son; for King *Henry* the Third had only these two Sons, *Edward* and *Edmund*. A

After the death of *Edward* the First, his Son *Edward* the Second succeeded him; and, as Men of purely Commonwealth-Principles tell us, he degenerating from so great a Father, the People grew weary of his Irregular Arbitrary Government; deposed him, and chose *Edward* his Son to Reign in his stead. A plain Argument, say they, of the Peoples Power in chusing their Kings, and of limiting and binding the Succession. C

But whoever reads this Story, will not find the ordinary People had much, if any thing to do in this matter, further than as they were excited to Tumults and Railing at the Government, by many of the Popular Bishops and Barons; for they always have been, and ever will be, Instruments of Designing Men against the Government, if by remissness thereof, and easiness of Governors, they be permitted. This King was Deposed and Murdered by a wicked Confederacy and Rebellion of many Bishops and Barons. And there is nothing to justify this Rebellion, Deposition and Murther, in which our Anti-Monarchial Men instance so often as an Example to be followed, but the meer doing of it: And if a Fact be therefore lawful, only because it is done, we have no need of Laws, Lawyers, or Officers of Justice, to maintain, plead for, or defend it. The truth is, this King was not of so brisk a temper, as his Father, nor endowed with so much Courage: he was more soft and easie, and used too great and unseasonable Indulgence, to such as he permitted to guide his Affairs, and the Affairs of the Kingdom in his Name. D E

From hence many Rebellious Barons, under pretence of the [1.] *Honour of God and Holy Church, the Honour of the King and Realm*, made Confederations to remove Evil Counsellors, reform the Court, and to force the King to let them name all Judges, the Chancellor, Treasurer, and other great Officers in Court, *Gascoigne*, *Ireland*, and *Scotland*. F

Thomas

Thomas Duke of Lancaster, one of those Commissioners and Ordainers, was always the Head of these Confederacies, [1] who pretended great *Affection to the King, to the common profit of the Realm*, and great care to see these Ordinances, cited in the Margin, maintained in all Points, and many things amended in the King's Household, Court and Realm.

[1] Vid. Memoranda Parliamenti, Ed. 2. apud Lincoln.

A At length this great Earl of *Lancaster* [2] behaved himself very indecently towards the King, and used him with much Scorn and Contempt; until at last, in the fifteenth of his Reign, he and many of his Confederates brake out into open Rebellion, at *Burton upon Trent*; and flying before the Kings Army Northward, was, with many others, taken at *Burrough-Bridge* in *Yorkshire*: and being tried by his Peers, was adjudged to be Hanged, Drawn and Quartered: which Sentence was pardoned by the King, and he was only Beheaded. * The like

[2] Walsingham; f. 116. n. 20, 30, 40.

* Ibidem

B Sentence had *Warren de Insula, William Toket, Thomas Maudut, Henry de Bradborn, William Fitz. William, and William Cheyne*, the Lord *Roger Clifford*, the Lord *John de Mounbray*, the Lord *Henry Tyes*, the Lord *Bartholomew de Badlesmere*, and *Joscelin de Invilla*; most of them Barons. *Propter Roberias & Felonias & resistentiam quam fecerunt contra Regem ad villam de Burton, Occidentes Regis familiares, & Regis transitum prohibentes, & partem villa prædictæ comburentes, &c.* For Robberies and Felonies, and the Resistance they made
C against the King at the Town of *Burton*; killing the King's Friends and Servants, and burning part of the Town upon their Retreat.

The Ordinances before-mentioned, in number forty one, were revoked, and the Confederations and Tumultuous Barons and their Actions censured, in a [3] Parliament holden at *Tork*, 15 *Edw. 2.* The Ordinances were revoked upon Examination of them before the Prelates, Earls, Barons, (amongst which were all the Ordainers then alive) and the Commons of the Realm: For that, by the things which
D were ordained, *The King's Royal Power was restrained in many things, against the due Greatness of his Seigniorie Royal, and contrary to the State of the Crown.* And also, for that in times past, by such Ordinances and

[3] Great Stat. Rol. ab Hen. 3. ad 21 Ed. 3. m. 31. Bib. Cott. Claudius, D. 2. f. 232. a.

[4] Provisions made by Subjects over the Power Royal of the Ancestors of the Lord the King. Troubles and Wars came upon the Realm, by which the Nation was in danger, and it was accorded and established in the said Parliament, by the Lord the King, and by the said Prelates,
E Earls and Barons, and all the Commonalty of the Realm at that Parliament assembled; *That all those things by the Ordainers ordained, and contained in the said Ordinances from henceforth, for the time to come, should cease, and lose their Force, Vertue and Effect for ever. And that from hence forward, in no time, no manner of Ordinances or Provisions made by the Subjects of the Lord the King, or his Heirs, by any Power or Commission whatsoever, over and upon the Power Royal of the said Lord the King, or his Heirs, or against the State of the Crown, shall be*
F *of no value or force.* But the things which shall be established for the Estate of the King and his Heirs, and for the Estate of the Realm and People, may be treated, accorded and established in Parliament, by the King, and by the Assent of the Prelates, Earls, Barons, and Commonalty of the Realm.

[4] Oxford Provisions, 42 Hen. 3.

[4] Walsingham, f. 115.
n. 40.

[5] Ibid. f. 119
n. 20.

[6] Ibid. f. 120
n. 20.

[7] Ibid. n. 40.

[8] Ibid. f. 121
n. 30.

[9] Ibid. n. 40.
& Cl. 20 Ed. 3.
m 11. Dorst.

[1] Walsingham, ibid. n. 40

Roger de Mortuo-Mari, Lord of Wigmore, [4] submitted himself to the King, which much weakened the Barons Forces before the Engagement at Burton, and was sent to the Tower of London; from whence he made his Escape after two Years Imprisonment, in the Seventeenth of the King's Reign, and went over Sea to the King of France; who at this time required the King of England to do him [5] Homage for Gascoyn and other Territories he held of him in France. But he delaying to do it, and excusing himself by [6] Messengers, who prevailed not, the King of France, with an [7] Army, seized Gascoyn, and the County of Ponthieu: yet by the means of Edmund of Woodstock, the King's Brother, and other English Noblemen then in France, a Truce was made with the King of France for a certain time, until a Peace might be treated of. [8] The Year following, the Bishops of Winchester and Norwich, with John de Britannia Earl of Richmond, were employed to that purpose: and after much disceptation about it, they received a Form of Peace from the King of France. And at length the [9] Queen, by Advice given by the Bishops and Great Men to the King, was sent to her Brother, the King of France, for making up, and Confirmation of the Peace. [1] And it was accorded, that King Edward should give the Prince, his Son, the Dutchy of Aquitain and County of Ponthieu, that he should go over into France, and do Homage for them; which he did accordingly.

[2] Cl. 19 Ed. 2
m. 2.

But the Prince being in France with his Mother, she had no mind to return. [2] The King sent divers Letters to his Son Edward, and his Queen Isabel; expostulating the Cause of their stay in France against his Will, and the Confederation they made there with Roger Mortimer, his Enemy and Rebel, and others.

[3] F. 122. n. 10
She was generally reported to be a vile Woman, cruel and unchast.

[4] Ibid. f. 125
lin. 49.

Walsingham says, [3] Some affirmed she stayed there against her Will, *Alii vero asserabant quod voluntarie propter nimiam familiaritatem tunc contractam inter Reginam & Rogerum de Mortuo mari sine quo & aliis Nobilibus de Anglia profugatis noluit dicta Regina redire, & maxime in odium dispensatorum.* But others affirmed she stayed voluntarily, by reason of the too great Familiarity she had contracted with Earl Roger Mortimer, [4] without whose Advice she did nothing; and without whom, and the other Noble-men that had fled out of England, she would not return; and especially for the Hatred she bare towards the Spencers; proud, ambitious, haughty and covetous Men, by whom the King was too much swayed in the Management of his Affairs; which might give a dissatisfaction to the Nobility, though not warrant their Actions.

[5] Ibid. f. 123
n. 20, 30.

The next [5] year, having married the Prince (not then fourteen years old) to the Earl of Hanault's Daughter, who furnished her with Shipping, and two thousand seven hundred and fifty Men, led by his Brother John, she, with Edmund Earl of Kent, and Roger Mortimer Lord of Wigmore, and many other Great Men who had fled out of England, landed at Harwich; to whom the Earl Marshal, the Earl of Leicester, and other Barons and Knights of those Parts, and almost all the Bishops did adhere: and proceeding, her Army daily increased; so as at last she took her Husband, the [6] King, Prisoner, and put to death both the Spencers; the Younger without [7] Hearing

[6] Ibid. f. 125
n. 30.

[7] Ibid. n. 50.

or

or Answering. The imprisoned King was carried and removed from place to place, but at last fixed at *Berkeley-Castle* in *Glocestershire*, under the Guard of *Thomas Berkeley* and *John Maltravers*, who had allowed [1] an hundred Shillings a day for his Expences and Keeping.

The Queen never would see him during his Imprisonment, [2] *Regina misit sibi Indumenta delicata, & Literas blandientes, sed tamen ipsum videre nolebat, fingens quod communitas Regni non permisit.*

A The Queen sent him gay Cloaths and flattering Letters, but would not see him, feigning the Community of the Kingdom would not permit her.

He was [3] made Prisoner, *November 16.* and the Morrow after *Twelfth-day*, all the Nobility of the Kingdom, being summoned to Parliament, met at *London*, and judged the King unfit to rule, and for several Reasons to be deposed; and his Son, Prince *Edward*, to be chosen King. [4] *Convenit Londiniis tota Nobilitas Regni citata per prius ad Parliamentum tenendum ibidem in crastino Epiphaniæ, ubi cuncti censuerunt Regem indignum Diademate, & propter plures Articulos deponendum, & Edwardum filium ejus primogenitum in Regem unanimiter eligendum, quod etiam consequenter factum est.* Of which

Transaction, when the Queen had notice, she was full of Grief outwardly (*ut foris apparuit*) saith *Walsingham*: But the Prince, affected with this outward Passion of his Mother, as young as he was, would not accept of this Title (whether out of his own Apprehension of things, or by grave and mature Advice, which is most probable.)

C Et [5] *Juravit quod invito patre nunquam susciperet coronam Regni*: And swore, that without his Father's Consent, he would never take upon him the Crown of the Kingdom. Whereupon, several [6] Messengers being dispatched to the King, then Prisoner at *Kenelworth-Castle*, who told him what had been done and concluded of, and diligently required him to resign his Royal Dignity and Crown, and permit his Son to reign in his stead.

D He was much disturbed with the Message; and said, Since it could be no otherwise, he thanked them for chusing his First-born Son; making his Resignation, and delivering up the Royal Ensigns, or Tokens of Sovereignty.

E This done, *Edward* the Third directs his Writs to the Sheriffs of the several Counties, for preserving and keeping the Peace; with this Preamble.

Rex [7] *Vicecom. Ebor. Salutem. Quia Dominus Edwardus nuper Rex Angliæ Pater Noster de Communi Consilio & assensu Prælator. Com. Baron. & alior. Magnat. necnon Communitat. totius Regni prædict. SPONTANEA VOLUNTATE se amovit a Regimine dicti Regni VOLENS & CONCEDENS quod nos tanquam ipsius primogenitus & HÆRES ipsius regni gubernationem & regimen assumemus, nosque ipsius patris nostri beneplacito in hac parte de consilio & avisamento Prælator. Com. Baron. Magnat. & Comit. prædict. annuentes Gubernacula suscepimus dicti regni; & fidelitates & Homag. ipsorum Prælator. & Magnat. recepimus ut est moris. Teste Rege apud Westmonasterium, 29 Jan.*

[1] Cl. 1. Ed. 3. Part. 1. m. 3. Dorf.

[2] Walsing. f. 127. lin. 36.

The Community could be no other than the Bishops and Lords which were here meant by that word in this place.

[3] Ibid. n. 40. Knighton says, Octabis Epiphaniæ, Eight days after Twelfth-Day. Col. 2549.

[4] Walsingh. f. 126. n. 20, 30.

Ibid. lin. 39.

[5] Ibid. n. 40.

[6] Ibidem.

Edward the Third.

[7] Cl. 1. Ed. 3. Part. 1. m. 28. Walsingham, f. 126. n. 50.

Note de Consilio & Avisamento, not Electione, &c.

‘ The King to the Sheriff of *Yorkshire*, Greeting. Because *Edward*, late King of *England*, our Father, by Common Council and Assent of Prelates, Earls, Barons, and other Great Men, and also of the Communities of the said Kingdom, of his own *Free Will*, removed himself from the Government of the said Kingdom: *Willing* and *Granting*, that We, as his First-born, and Heir of his Kingdom, should take upon us the Rule and Government. And We yielding to the good Pleasure of our Father, by the Counsel and Advice-ment of the Prelates, Earls, Barons, Great Men, and Communities afore-*said*, have taken upon Us the Government of the said Kingdom, and received the Fealties and Homages of the said Prelates and Great Men according to Custom. Witness the King at *Westminster*, Jan. 29.

Nine days after he was invested with Kingship; and not long after that King *Edward* the Second was murdered in *Berkeley* Castle.

Any Man, though but of an indifferent Capacity, that seriously considers the Story of this unfortunate Prince, will easily perceive he was deposed by notorious Rebellion, raised by Factious Bishops and Tumultuous Barons; and not without great suspicion of an intended Usurpation by *Thomas* Earl of *Lancaster*: and may easily see through the Contrivance of the Queen and *Mortimer* afterwards: and from thence cannot but judge it to have been a Design of wicked popular Barons, and not the Action, much less the Choice of the People.

Rot. Parl.
4 Ed. 3. n. 1.

In the Fourth of *Edward* the Third, *Roger Mortimer*, Earl of *March*, was impeached in Parliament for divers Felonies and Treasons; for assuming to himself Royal Power, making Dissention between King *Edward* the Second and his Queen, and for murdering of him, and many other great Treasons: and adjudged to be Drawn and Hanged, and was executed accordingly. And the Earl Marshal was commanded to do the Execution; and the Mayor, Aldermen, and Sheriffs of *London*, and Constable of the Tower, to guard and assist him.

Ibid. n. 2, 3, 4, 5

Many of his Accomplices had the same Judgment.

Rot. Parl. 50.
Ed. 3. n. 40.
al. 50.

In the Fiftieth of *Edward* the Third, the Parliament do acknowledge *Richard* the Second to be very Heir to the Crown, as Son to *Edward* the Black Prince, very Heir to the Crown; and petition the King (his Father being dead) to make him Prince of *Wales*.

[1] Walsingham.
fol. 193. n. 40.
[2] Ibid. f. 195
n. 10.

Who, after his Grandfather's death, was immediately by all People, the [1] *Londoners* especially, acknowledged, owned and addressed to as King; and not long after [2] Crowned with great Solemnity. He lived continually in Tumults, and by his Great Uncles his Reign was made uneasy, and at length was deposed and murdered by a Potent Faction.

The Author of the *Brief History of Succession*, fol. 7. recommends to his Readers the thirty three Articles drawn up against *Richard* the Second, as well deserving to be read; with hope and design, as easily may be guessed, to make them believe and think he was justly deposed and

A and murdered. But Mr. Hollingshed, a moderate Writer, who hath truly related these Articles, and all the Transactions of his Deposition and Murder, tells us, [1] that whatsoever Writers do report, touching the State of the time and Doings of the King, yet if he might boldly speak what he thought, He was a Prince the most unthankfully used of his Subjects of any one of whom ye shall lightly read: For, although (through Frailty of Youth) he demeaned himself more dissolutely than seemed convenient for his Royal Estate, and made choice of such Counsellors as were not favoured of the People; whereby he was the less favoured himself. Yet in no Kings days were the Commons in greater Wealth, if they could have perceived their happy State. Neither in any other time were the Nobles and Gentlemen more cherished, nor Church-men less wronged. But such was their Ingratitude towards their bountiful and loving Sovereign; that those whom he had chiefly advanced, were readiest to control him, for that they might not rule all things at their Will, and remove from him such as they misliked, and place in their rooms whom they thought good; and that rather by strong Hand, than by gentle and courteous means: Which stirred such malice betwixt him and them, till at length it could not be asswaged, without peril of Destruction to them both.

[1] Third Vol. of Chron. f. 508. n. 50.

C The chief Instruments in deposing this King were Henry Duke of Lancaster, late Earl of Derby, and Thomas Arundel Archbishop of Canterbury: who assisted by others, reduced the unfortunate King to so great Straits, as he was weary of his Government. They having him in their power, kept him safe in the Tower of London, until a Parliament was called; which was suddenly done, by directing Writs in the King's [2] Name, to those who of Right ought to be there. All things were prepared for the Resignation of his Crown against the time of the meeting of the Parliament. He [3] was, by certain Commissioners appointed by it, deposed; or had rather a Resignation of the Crown extorted from him, though he seemed willing and forward to do it.

Walsingham, f. 358. n. 50.

[2] Ibid. f. 359 lin. 1.

[3] Rot. Parl. 1. H. 4. n. 52.

D And then the Duke of Lancaster claimed the Crown in Parliament, and challenged the Realm, [4] ALS DESCENDIT BE RYGT LYNE OF THE BLODE COMEYNGE FRO THE GUDE LORD HENRY THERDE.

Henry the Fourth.

[4] Ibid. n. 53.

E Postquam quidem [5] vindicationem & clameum tam Domini Spirituales quam Temporales, & omnes status ibidem presentes, singillatim & communiter interrogati, quid de illa vindicatione, & clameo sentiebant. Idem status cum toto populo absque quacunque difficultate vel mora, ut Dux præfatus super eos regnaret, unanimiter consenserunt.

[5] Ibid. n. 54.

F After which Claim and Challenge, as well the Lords Spiritual as Temporal, and all States there present being severally asked what they thought of that Challenge and Claim, the same States, with all the People, without difficulty or delay, consented the aforesaid Duke should reign over them.

And then shewing to the States the [6] Signet of King Richard, which he gave him as a token of his desire to have him succeed him: The Archbishop, taking him by the Right Hand, placed him in the Throne.

[6] Ibid. Suz voluntatis.

Here

Here we see the Foundation of the Parliaments Consent, that *Henry* should be King, was a pretended Right of Blood, and the desire of King *Richard* that it might be so.

Henry the Fourth his Title.

Henry the Fourth was Son to John of Gaunt, Duke of Lancaster, fourth Son to Edward the Third, by Blanch his Wife, Daughter and Heir of Henry Duke of Lancaster, Son of Henry Earl of Lancaster, Brother and Heir to Thomas Earl of Lancaster, eldest Son to Edmund called Crouch-Back the First Earl of Lancaster, Second Son to King Henry the Third.

[1] *Sir J. Howard's Life of Hen. 4. P. 99.*

Upon [1] Consideration had of this Title, it was conceived to be insufficient, and that it would pass for a Blind and Pretence only. And therefore King *Henry*, upon the day of his Coronation, caused to be proclaimed, That he claimed the Kingdom of *England*; [2] First, *By Right of Conquest*: Secondly, *Because King Richard had resigned his Estate, and designed him for his Successor.* And lastly, *Because he was of the Blood-Royal, and NEXT HEIR MALE UNTO KING RICHARD.*

[2] *Ibid. P. 99.*

In this Claim he takes no notice of any Election by the People, nor doth own the least Right in them to elect him; but founds his Title upon Conquest, and Proximity of Male-Blood, and Donation of *Richard the Second.*

Hen. 4. 5, & 6.

[3] *Rot. Parl. 39 H. 6. n. 11. Richard Duke of York his Claym.*

Henry the Fourth, Fifth and Sixth held the Crown by Usurpation, without much disturbance, until the thirty ninth Year of Henry the Sixth; [3] when Richard Duke of York put in his Claim, as Heir to Philippa, Daughter and Heir to Lionel, the third gotten Son of King Edward the Third; to whom the Right, Title, Dignity Royal, and Estate of the Crowns of the Realms of England, and of France, and of the Lordship and Land of Ireland, of Right, and Law, and Custom appertaineth and belongeth, before any Issue of John of Gaunt, the fourth gotten Son of the same King Edward.

Ibid. n. 12.

The Lords Spiritual and Temporal, the Question being put, what they thought of the Duke's Claim, answer, that *The Matier was so high, and of such wyght, that it was not to any of the King's Subjects to enter into Communication thereof, without his high Commandment, Agreement and Consent had thereto.*

Ibidem.

The Duke pressing for an Answer, all the Lords went unto the King, and opened the Claim by the Mouth of the Chancellor of *England*; and it pleased him to pray and command all the said Lords, that they should search, as much as in them was, to find all such things as might be object, and leyde against the Claym and Title of the Duc.

Ibidem.

Whereupon, in the Morning, *October 18.* the Lords sent for the King's Justices to defend his Title, against the Claim of the Duke of *York*; and in the King's Name, streightly commanded them to find all Objections as might be laid against the same, in fortifying of the King's Title.

Who,

Who, on Monday following, on the 20th of October, answered, that the matter was so high, and touched the King's high Estate and Regalie, which is above the Law, and passed their Learning: Wherefore they *durst not enter into any Communication of the same*, for that it pertained to the Lords of the King's Blode, and *th' Apparage of this his Londe*; and therefore besought all the Lords to have them utterly excused.

Ibidem.

A Then the Lords sent for all the King's Serjeants and Attorney, and gave them streight Commandment in the King's Name, that they *sadly and awisely shuld serch*, and take all such things as might be best and strongest to be *allegged* for the King's Avail in Objection, and defeating of the Title, and Cleyment of the Duc.

Ibidem.

B They answered, *thas if this matier passed the Lerning of the Justices, it must needs exceed their Lerning*: and also that they *durst not enter into any Communication in that matier*: and prayed and besought all the Lords to have them excused by *geveing any Advice or Counsel therein*. But the Lords would not excuse them: and therefore, by their Advice and Assistance, it was concluded by all the Lords, that the Articles following should be objected *agenst the Glayme and Title of the Duc*.

Ibidem.

C 'First, It is thought that the Lords of this Lond, must needs call to their remembrance the great Oaths the which they have made to the King, the which may be *leyd* to the said Duc of York; and that the Lords may not break their Oaths.

Ibid. n. 13.

D 'Item, It is thought also, that it is to be called to remembrance the great and notable Acts of Parliament of divers of the King's Progenitors. The which Acts be sufficient and reasonable to be *leyd* agene the Title of the said Duc of York. The which Acts be of much more Authority than any Chronicle; and also of Authority to defete any manner of Title, made to any Person.

'Item, It is thought that there is to be *leyd* ayent the Title divers Inteyles made to the Heirs Males of Henry the Fourth, as for the Crown of England, as it may appear by divers Chronicles and Parliaments.

E 'Item, It is thought, to be *allegged* the Title of the said Duc, that the tyme that King Henry the Fourth toke upon him the Corone of England, he said he entered and toke upon him the Corone as right Inheritor to King Henry the Third, and not as a Conqueror.

To which Articles the Duke answered.

F First, That no Oath being the Lawe of Man, ought to be performed, when the same leadeth to suppression of Truth and Right, which is against the Lawe of God.

Ibid. n. 14.

To the second and third, That in *trouth* there been noo such Acts and Tayles made by any Parliament heretofore, as it is surmised, but only in the [4] seventh yere of King Henry the Fourth, a certain Act and Ordinance was made in a Parliament by him called, wherein he made the

Ibid. n. 15.

[4] Cap. 2.

the Reaums of Englonde and France, amongst other, to be unto him, and to the Heires of his Body comeing, and to his four Sons, and to the Heires of their Body comeing, in manner and fourme as it apperith in the same Act. And if he might have obteyned and rejoyced the Coronas, &c. by Title of Inheritance, Discent, or Suecession, He neither needed or would have desired or made thaim to be granted to him in such wyse as be by the said Act, which tacketh noo place, neither is of eny force or effect ayenst him that is right Inheriter of the sayd CORONES, as it accordeth with Gods Lawe, and all Natural Lawes; howe it be that all other Acts and Ordinances made in the seyde Parliament sithen, been good and sufficient ayenst all other Persons.

Ibid. n. 17.

To the fourth, That such seying of the King Herry the Fourth, may in no wyse be true; and that the contrary thereof, which is trouthe, shall be largely enough shewed, approved, and justified by sufficient Autorite, and matter of Record; and over, that his seyde seying was only to shadowe and cover fraudulently his seyde unrightwyse and violent Usurpation, and by that moyen to abuse disceyveably the People standing about him.

Ibid. n. 18.

Upon consideration of this Answer, and Claim of the Duke of York, it was concluded and agreed by all the Lords, That his Title could not be DEFETED; and therefore for eschuying the great Inconvenients that may ensue, a mean was found to save the King's Honor and Estate, and to appease the said Duc, IF HE WOULD; which was, That the King should enjoye the Corone during Life, the Duke to be declared the true Heir, and to possess it after his Death, &c.

The Ground
and Foundati-
on of Successi-
on to the
Crown declar-
ed in Parle-
ment.

In the first Article of this Agreement, or Accord, (as 'tis there called) the Title of the Duke of York is set forth; and the Judgment of the Parliament given, what then was, and before had been the Foundation and Ground of the Succession to the Crown of England, that is, Proximity of Blood. The Articles follow, so much of them as is pertinent to this matter.

First, Where the seyde Richard Duc of Yorke hath declared and opened, as above, his seyde Title and Cleyme in manner as followeth. That the right noble and worthy Prince Herry King of Englonde the Third, had Issue and leefully gate Edward his first-begotten Son, born at Westminster the xv Kalend. of Juyle, in the Vigil of St. Mart. & Marcellian. the Yere of our Lord M. CC. XXXIX. and Edmund his second gotten Son, which was born on Seint Marcell. day, the Yere of our Lord M. CC. XLV. The which Edward, after the death of the seyde King Herry his Fader, entituled and called King Edward the First, had Issue Edward his first-begotten Son, entituled and called after the decease of the seyde first Edward his Fader, King Edward the Second; which had Issue and leefully gate the ryght Noble and Honourable Prynce Edward the Third, true and undoubted King of Englonde, and of France, and Lord of Ireland: Which Edward the Third, true and undoubted King of Englonde, and of France, and Lord of Ireland, had Issue and leefully gate Edward his first begotten Son, Prynce of Wales; William Hatfield, second-begotten; Leonell, third-begotten, Duc of Clarence; John of Gaunt, fourth-begotten, Duc of Lancaster; Edmund Langley, fifth-begotten, Duc of Yorke; Thomas Woodstock, sixth-begotten, Duc of Gloucester; and William Wyndesore, the seventh-begotten.

The

The seyd Edward Prynce of Wales, which dyed in the lyfe of the seyd Edward King, had Issue and leefully gate Richard, the which succeeded the same Edward King, his Grandfather, in Royal Dignity, entituled and called King Richard the Second, and ayed without Issue. William Hatfield, the second-goten Son of the seyd Edward King, dyed without Issue. Leonell, the third-goten Son of the same King Edward, had Issue and leefully gate Philippa his oonly Daughter and Heir, which by the Sacrament of Matrymony copled unto Edmund Mortimer Erle of March, had Issue and leefully bare Rogier Mortimer Erle of March, her Son and Heir: Which Rogier Erle of March had Issue and leefully gate Edmund Erle of Marche, Rogier Mortymer, Anne, and Alianore; which Edmund, Rogier, and Alianore dyed without Issue: And the seyd Anne, under the Sacrament of Matrymony, copled unto Richard Erle of Cambridge, the Son of the seyd Edmund Langley, fifth-begoten Son of the seyd King Edward, as it is afore specified, had Issue and leefull, bare Richard Plantagenet, commonly called Duc of Yorke: The seyd John of Gaunt, the fourth-goten Son of the seyd King Edward, and younger Brother of the seyd Leonell, had Issue and leefully gate Henry Erle of Derby, which incontinent after the tyme that the seyd King Richard resigned the Coronas of the seyd Reaumes, and the seyd Lordship of Ireland, unrightwysely entered upon the same, then being on live Edmund Mortymer Erle of Marche, Son to Rogier Mortymer Erle of Marche, Son and Heir of the seyd Philippa, Daughter and Heir of the seyd Sir Leonell, the third Son of the seyd King Edward the Third; to the which Edmund the Ryght and Title of the seyd Coronas and Lordship by Lawe and Custome belonged.

Before we pass over these three Usurpers, we must take notice of a Passage in Polydore Virgil concerning Henry V. in these words: *Princeps Hen. facto Patris funere, Concilium Principum ad Westmonasterium convocandum curat, in quo dum de Rege creando more majorum agitabatur, Ecce tibi de repente aliquot Principes ultro in. E. J. U. S. V. E. R. B. A. jurare ceperunt. Quod Benevolentia Officium [1] nulli antea priusquam Rex renuntiatus esset, praestitum constat: adeo Hen. ab ineunte aetate spem omnibus optime indolis fecit. Creatur itaque Rex ad quintum Iduum Aprilis eo Anno quo Pater e vita excesserat, & Quintus ejus Nominis Henricus dictus est.*

The [2] Author of the Brief History of Succession thus renders this Sentence: Immediately upon the death of Henry the Fourth a Parliament [3] MET at Westminster, and there, according to the Custom of the Realm, it was debated who should be King: But all men had entertained so good thoughts of Prince Henry, that without staying till the whole Assembly had declared him King, divers of them began to swear Allegiance to him; a thing strange, and without president, as only occasioned by extraordinary Opinion which was generally conceived of him before, and the certain Title vested in him by [4] Act of Parliament.

In his Citation of the Latin, he leaves out these Words which belong to this piece of Story, and do declare the meaning of it: *Creatur itaque Rex ad quintum Iduum Aprilis eo Anno quo Pater e vita excesserat, &c.* He was Crowned King on the fifth of the Ides of April, the same year his Father died.

Lib. 22. sub initio, fol. 433. n. 30.

[1] Edw. I. was in Palestina when his Father died, yet acknowledged K. before his return. K. John was acknowledged King before his Coronation also.

[2] Fol 7.

[3] The words are Concilium Principum convocandum curat. If this was a Parliament, he must be King before he could call it.

[4] He means the Act of Entail of the Usurpation, 7 H. 4. c. 2.

Tho. Walsingham who lived at this time, says, *Henry* the Fourth died *March 20. 1413.* And then, *eodem Anno Coronatus Londoniis Henricus Primogenitus Regis Henrici nuper defuncti quinto Iduum Aprilis, &c.* The same year *Henry* the First-born of King *Henry* lately deceased, was Crowned at *London* on the fifth of the Ides or tenth of *April.* By which words of *Walsingham* 'tis evident he hath mistaken the meaning, and falsly translated the Words of *Polydore*; for they ought to be Englished in this manner.

Prince *Henry* having buried his Father, caused a Council of the Chief Men of the Nation to be called at *Westminster*, in which they treat, or debate about Crowning the King, according to the Custom of his Predecessors; forthwith some of the Great Men began to swear as he dictated to them, which officious Benevolence was performed to none before he was declared King; such hope he had given from his Childhood of an excellent Disposition: therefore he was Crowned King on the fifth of the Ides of *April*, that Year his Father died, and was called *Henry* the Fifth. An intelligent Man would wonder how the Writer of the *Brief History, &c.* should SQUEEZE his Translation out of these Latin words.

But *Polydore*, who, as I hinted before, was very unfit to write the English History, hath very odly in Latin express'd this Relation, as he likewise hath done many other Stories. His Character take from Sir *Hen. Savile*, in his Epistle to Queen *Elizabeth*, before his Edition of the old English Writers after *Bede.* *Polydorus* (saith he) *ut homo Italus, & in rebus nostris hospes (Quod caput est) neque in Republica versatus, nec magni alioqui vel iudicii, vel ingenii, pauca ex multis delibans, & falsa plerumque pro veris amplexus, Historiam nobis reliquit cum cetera mendosam tum exiliter sane & jejune conscriptam.* *Polydore*, as he was an *Italian*, and a Stranger in our Affairs, and, which was the chief matter, not understanding our Government and Laws, nor otherwise of great Wit or Judgment, chusing a few things out of many, and oft-times taking false things for true, hath left us a very faulty History, slightly and pitifully written.

Edward the Fourth.
[5] Rot. Parl.
1 Edw. 4. n. 9.
10, 11, 12, 13,
&c.

After the Reign of these three Usurpers, and Deposition of *Henry* the Sixth, in the [5] first of *Edward* the Fourth, the Proceedings against *Richard* the Second are Repealed, where 'tis said, That *Henry* Earl of *Derby*, afterwards *Henry* the Fourth, temerously ayenst ryght-wisnesse and Justice, by Force and Arms, ayenst his Faith and Ligeance, rered *Werre* at *Flynt* and *Wales* ayenst King *Richard* the Second, him tooke, and imprisoned in the Tower of *London*, in great violence, and usurped and intruded upon the Royal Power, Estate, Dignity, &c. And not therewith satusfied or content, but more grievous thing attempting, wickedly, of unnatural, unmanly, and cruel Tyranny, the same King *Richard*, King Anointed, Crowned, and Consecrated, and his Liege and most Sovereigne Lord in Earth, against Gods Lawe, Mans Ligeance, and Oath of Fidelity, with uttermost punction, attormenting, murdered, and destroyed, with most vile, hainous, and lamentable Death, &c.

Ibidem.

The Commons being of this present Parliament, having sufficient and evident knowledge of the said unryghtwyse Usurpation and Intrusion, by the said *Henry* late Earl of *Derby*, upon the said Crown of England,

A England; knowing also certainly, without doubt and ambiguity, the Right and Title of our said Sovereigne Lord thereunto true, and that by Gods Lawe, Mans Lawe, and the Lawe of Nature, he, and none other, is, and ought to be, their true, *ryghtwyse*, and natural Liege, and Sovereigne Lord, and that he was in right from the Death of the said Noble and Famous Prince his Father, very just King of the said Realm of *England*, doe take, accept, and repute, and will for ever take, accept, and repute the said *Edward* the Fourth, their Sovereigne and Liege Lord, and him and his Heirs to be Kings of *England*, and none other; according to his said Right and Title.

B And that the same *Henry* unryghtwyfely, against Lawe, Conscience, and Custome of the said Realm of *England*, usurped upon the said Crown and Lordship; and that he, and also *Henry* late called King *Henry* the Fifth, his Son, and *Henry* late called King *Henry* the Sixth, his Son, occupied the Realm of *England* and Lordship of *Ireland*, and exercised the Governance thereof, by *unryghtwyse*, *Intrusion*, *Usurpation*; and no otherwise.

C That the Amotion of *Henry*, late called King *Henry* the Sixth, from the *Exercise*, *Occupation*, *Usurpation*, *Intrusion*, *Reign* and *Governance* of the same Realm and Lordship, done by our Sovereigne Lord King *Edward* the Fourth, was and is *rightwyse*, *lawfull*, and according to the *Lawes* and *Customes* of the said Realme, and soe ought to be taken, holden, reputed, and accepted.

Further. Some, if not all the Grants made by *Henry* Earl of *Derby*, called *Henry* the Fourth, the said *Henry* his Son, or the said *Henry* called *Henry* the Sixth, or by *Authority* of any *pretenced* Parliament, in any of their days; were reputed null and void.

D That the unryghtwyse and *unlawful* *Usurpation* and *Intrusion* of the same *Henry* upon the Crown of *England* and Lordship of *Ireland*, was to the great and intolerable hurt, prejudice, and derogation of *Edmund Mortimer* Earle of *March*, next Heir of Blood of the said King *Richard* at the time of his Death, and to the Heirs of the said *Edmund*, and to the great and excessive Damage unto the Realm of *England*, and to the *politick* and *peaceable* Governance thereof, by inward Wars, moved and grounded by occasion thereof.

E In the First of *Richard* the Third, the [1] Three Estates, after having much faulted the Government, Marriage, and Person of *Edward* the Fourth, and affirmed, That the Right and Title of the Issue of *George* Duke of *Clarence* was barred by his Attainder, and extolling the Parts, Wisdom, and Justice of *Richard* his Brother, declared him undoubted Heir of *Richard* Duke of *York*, Father to *Edward* the Fourth, very Inheritor of the Crown of *England*, and Dignity Royal, and as in Right King of *England* [2] by way of Inheritance; and therefore having in his great prudent Justice, Princely Courage, and excellent Virtue, singular Confidence, did by Writing (in all that in them lay) chuse him their King and Sovereign Lord, to whom they knew of certain it appertained to be so chosen, &c.

Ibidem.

Ibidem.

Ibidem.

Ibidem.

Richard the Third.
[1] Exact Abridgment, fol. 712. In this Abridgment the whole Record of 1 R. 3. is printed.

[2] Ibid f. 713

Ibidem.

And do further declare, That the *Right, Title, and Estate* which King *Richard* the Third had to, and in the *Crown*, and Royal Dignity of the Realm of *England*, with all things thereunto within the said Realm, and without it, annexed and appertaining, was just and lawful, as grounded upon the *Laws* of God and *Nature*, and also upon the *antient Laws* and *laudable Customs* of this said Realm, as also taken and reputed by all such *Persons* as were *learned* in the abovesaid *Laws* and *Customs*.

A

[3] Ib. f. 714.

And then they proceed, and say, Yet nevertheless, forasmuch as it is considered that the most part of the People is not *sufficiently* [3] *learned* in the abovesaid *Laws* and *Customs*, whereby the *Truth* and *Right* in this behalf of likelyhood may be hid, and not clearly *known* to all the People, and thereupon put in doubt and question. And over this, how that the *Court of Parliament* is of such *Authority*, and the People of this Land of such a nature and disposition, as *Experience* teacheth, that *Manifestation* or *Declaration* of any *Truth* made by the *Three Estates* of this Realm assembled in Parliament, and by *Authority* of the same, maketh before all other things most faithful and certain quieting of Mens minds, and removeth the occasion of Doubts and seditious Language.

B

Ibid. f. 717.

Therefore at the Request, and by the Assent of the *Three Estates* of this Realm, *THAT IS TO SAY, The Lords Spiritual and Temporal, and Commons of this Land, assembled in this present Parliament*, and by the Authority of the same, be it pronounced, decreed, and declared, That our said Sovereign Lord the King, was and is the very undoubted King of this Realm of *England*, with all things thereunto belonging, within the said Realm, and without it, united, annexed, and appertaining, as well by Right of *Consanguinity* and *Inheritance*, as by lawful *Election, Consecration, and Coronation*.

C

Election here
can signifie no-
thing but Re-
cognition.

Henry the
Seventh.

[1] Bacon's
Hist. f. 7.

[2] Rot. Parl.
1 H. 7.

Hereditary Right, and Right of *Blood*, was the Ground of this Establishment.

D

Henry the Seventh having no *Hereditary* Title of his own, and being always [1] averse to take upon him the only *true* and *undoubted* Title of his Queen, eldest Daughter and Heir to *Edward* the Fourth, procured an Act of Parliament [2] That the *Inheritance* of the Crown of the Realms of *England* and *France*, with all the *Preheminencies* and *Dignities* Royal to the same appertaining, and the *Ligeances* to the King belonging beyond the Seas, &c. shall be, rest, remain, and abide in the most Royal Person of our most Sovereign Lord *Henry* the Seventh, and in the Heirs of his *Body* lawfully coming, perpetually, and so to endure, and no otherwise.

E

It may be noted from these words, That the *Inheritance* of the Crown should *rest, remain, and abide* in the King, &c. That he designed not a Declaration or Recognition of his Right, but rather an *Establishment* of that *Possession* he had gotten by the *Sword*; for not thinking this Act a *Sufficient Security* for him, nor depending on this *Parliamentary Title*, he extended his pretences beyond this Establishment, in as much as he procured it to be confirmed the year following by the Bull of Pope *Innocent* the Eighth, in which this Statute, with

F

with his *Titles of Conquest, and Descent*, are mentioned and confirmed.

* The Bull says, That the Kingdom of England belonged to him by undubitable right. *Non modo jure Belli, ac notorio & indubitato proximo successionis Titulo, verum etiam omnium Prelatorum, Procerum, Magnatum, Nobilium, totiusque ejusdem Regni Angliæ plebis Electione, & noto ac decreto statuto & ordinatione ipsius Angliæ Regni trium Statuum, in ipsorum conventu Parlamento nuncupato:*

* In Cotton. Libr. Cleopat. E. 3.

A

That is, Not only by the right of War, and the notorious and indubitable next * *Title of Succession*, but also by the election of all the Prelates, and Great Men, and of the whole Commonalty of the Kingdom of England, and by a known and decreed Statute and Ordinance of the *Three Estates* of the same Kingdom of England, in their meeting called a *Parliament*.

* It is true, if meant in right of his Queen, And note, He prefers his Title by Conquest and Succession, before that by Act of Parliament.

B

And afterward in the Thirteenth of his Reign, he got his Bull renewed and the *Act* confirmed again by * Pope *Alexander* the Sixth, under pain of Excommunication, and Curse to such as should upon any pretence whatsoever, disturb the *Peace* of the Nation, and create troubles against this *Title* of *Henry* the Seventh.

* Ibidem.

C

So that notwithstanding this *Act* of Parliament, which was cunningly penned to establish his *Possession* he had obtained by the *Sword*, He thought that, and the *Popes Bulls* of Confirmation his best *Title*, yet not omitting his own pretended indubitable next *Right* of *Succession*.

D

Henry the Eighth, next Heir to the Crown by *Proximity* of Blood, as right Heir to his Mother *Elizabeth*, Daughter and right Heir to *Edward* the Fourth, succeeded his Father in his Kingdom; who in all Extravagant Acts concerning his *Queens* and the *Succession*, ever founded it in pretended legal *Proximity* of Blood, and Lawful next *Heirs* of Blood, according to the due course of *Inheritance*; the pretended want of which, was the only suggestion for passing these Acts.

Henry the Eighth.

E

In the Twenty fifth of *Henry* the Eighth there was an *Act* for the Succession; the preamble this. *In their most humble wise shewen unto your Majesty your most humble and obedient Subjects the Lords Spiritual and Temporal, and Commons in this present Parliament, &c. That since it is the natural inclination of every man to provide for the surety both of his Title and Succession, although it touch his only private Cause; we therefore reckon our selves much more bounden to beseech and instant your Highness to foresee and provide for the perfect surety of both you, and your lawful Succession, and Heirs, upon which dependeth all our joy and wealth, in whom also is united and knit the only meer * TRUE INHERITANCE, and TITLE of this Realm without any contradiction.* And then mentions, that certain divisions arose upon ambiguities, and doubts not perfectly declared from froward intents, to expound them contrary to the right legality of the *Lawful Succession*, and posterity of the *lawful Kings* and *Emperors* of this Land.

Cap. 22. The First Act of Entail of the Crown, 25 Hen 8.

F

After this confirming the Divorce of *Queen Katherine*, as also the King's Marriage with *Anne Boleyn*, the Parliament entayles the Crown upon him and his *Heirs Male* by her, and for want of such *Issue* upon

* As being the Issue and Heir of both Houses of York and Lancaster.

upon *Elizabeth* their eldest Daughter, and their *Heirs* Females according to the *due course* of *Inheritance*.

From whence it appears, that the Succession was founded upon *Inheritance*, and the design of the Act was, that *Henry* the Eighth might have Lawful Issue to *inherit* the Crown, that so all *Ambiguities*, and *Doubts* about the *Succession* might be taken off. And all the Kings *Subjects* were bound, under pain of *Misprision* of *Treason*, to swear to observe the *Contents* of this Act. A

The 2d Act of
Succession,
28 Hen. 8.

Pult. Stat.
f 628. 630.
Ibid. f. 633.

Ibidem.

Ibid. f. 631.

Ibid. f. 632.

Ibidem.

The Act for Succession, 28 Hen. 8. c. 7. affirms there were many *Lawful impediments*, unknown at the making of the Act of Succession, 25 Hen. 8. c. 22. which since that time were confessed by the Lady *Anne* before *Thomas Archbishop* of *Canterbury* sitting Judicially for the same: By reason of which *Impediments*, the Kings Marriage with her was never good, nor consonant to the *Laws*; and therefore Queen *Elizabeth* was declared *Illegitimate*, and it was declared *Treason* for any Man to judge or believe the Marriage between the King and the Lady *Katherine*, or *Anne*, to be good, lawful, or of any effect. It was also in this Act declared *Treason* for any one to take, accept, name, or call any of the Children born and procreate under those unlawful Marriages, legitimate, or lawful Children of the King. And therefore the Crown was settled upon the King and his *Heirs Males* by his *Lawful Queen Jane*; and for want of such Issue by her, upon his *Heirs Males* by any other *Lawful Wife*; and for want of *Heirs Males*, upon his *Heirs Females* by Queen *Jane*, or any other lawful Wife. And for lack of *Lawful Heirs* of his Body to be procreated and begotten as is limited by this Act, to such Person and Persons in Possession and Remainder, as should please the King; and according to such *Estate*, and after such manner, form, fashion, order, and condition, as shall be expressed, declared, named, and limited by his *Letters Patents*, or by his last Will. And then follows, And we your most humble and obedient Subjects, do faithfully promise to your Majesty by one *Common Assent*, That after your decease, and for lack of Heirs of your Body lawfully begotten, as is afore rehearsed, We, our *Heirs* and *Successors*, shall accept and take, love, dread, serve, and alonely obey, such Person and Persons, Males or Females, as your Majesty shall give your said Imperial Crown unto, by Authority of this Act, and to none other; and wholly to stick to them as true and faithful Subjects ought to do to their *Regal Rulers*, *Governours*, and *Supream Heads*. B C D E

To provide for *Lawful Heirs* was the pretended Ground of this Act of Succession; not to exclude them, and to give the King a strange unheard of Power to dispose of the Crown, &c.

The Third Act
of Entail,
35 of Hen. 8.

The Thirty fifth of *Henry* the Eighth, cap. 1. recites how the Crown was entailed, 28 Hen. 8. and what Power was given to him to dispose of the Crown. To the intent therefore, that His Majesty's disposition and mind therein might be openly declared, and manifestly known, His Majesty designing a Voyage beyond Sea; it was enacted by his Highness, with the Assent of the Lords Spiritual and Temporal, and Commons in Parliament assembled, and by Authority of the same, That in case it should happen, the King's Majesty, and *Prince Edward*, *Heir Apparent*, to die without Issue of their Bodies lawfully begotten, F

so as there be no *Heirs Male* or *Female* of either of their Bodiesto have and inherit the said Imperial Crown, that then it should be to his Daughter *Mary*, and her *Heirs lawfully to be begotten under such Conditions as should be limited by the King's Letters Patents, or his last Will: And for default of Issue, to his Daughter Elizabeth upon the same Conditions.* But if no Conditions were appointed, then the Succession to each of them, one after another, absolutely.

A And for want of Heirs by his Queen *Katherine*, his Lawful Wife; and for want of Lawful Issue of Prince *Edward*, his Daughters *Mary* and *Elizabeth*, then the King to dispose of the Crown at his only pleasure from time to time.

B All these Acts of Succession were made by the King's Sollicitation, Authority, Command, or other Procurement; and were not otherwise moved, contrived, or offered to him.

In the First of Queen *Mary* there is an Act, declaring the Queens Highness to have been born in most just and faithful Matrimony; and also repealing all Acts of Parliaments and Sentence of Divorce made or had to the contrary. The intention of this Act was to declare the Succession to be in Inheritance by Right of Blood.

C In the First of *Elizabeth*, the Lords Spiritual and Temporal, and Commons do declare and confess that Queen *Elizabeth*, and in very deed, and of most meer Right, ought to be, by the Laws of God, and the Laws and Statutes of this Realm, their most rightful and lawful Sovereign Queen: And that she was rightly, and lineally, and lawfully descended and come of the Blood-Royal of this Realm of England; in and to whose Princely Person, and the Heirs of her Body lawfully begotten after her, without all Doubt, Ambiguity, Scruple or Question, The Imperial Crown and Dignity of this Realm was really and entirely vested. In this Law (whether it were true or not in her) the right, lineal and lawful Descent of Queen *Elizabeth* was the Ground upon which she was declared to be by God's Laws, and the Laws and Statutes of this Realm, most rightful and lawful Queen.

E And whatever she and her Council secretly thought of her own Personal Title; Yet upon the Treaty of Marriage with the Duke of Anjou, in the Answer to the Sixth Article delivered by the French Ambassador, it is declared, That the Succession in her Kingdoms was, and ought to be Hereditary, according to nearness in Blood. The words are, *Liberi ex hoc Matrimonio prognati in materna hereditate succedent in regnis, secundum jura & consuetudines regnorum, viz. primogenitus filius in Coronam quam Regina mater habet, & si nulli extabunt filii Masculi, filia si extabunt, viz. prima & sola maxima natu, &c. Atque idem ut fiat in hereditate paterna aequum est, & quomodo consuetudines locorum id ferent, intelligi par est.* That is, The Children begotten of this Marriage shall succeed in the Mothers Inheritance in the Kingdoms, according to the Laws and Customs of the Kingdoms; that is to say, The First born Son shall enjoy the Crown which the Queen Mother hath. And if there be no Issue Male, the Daughters, if there be any, shall succeed; that is to say, the Eldest first, and alone, &c. And that it is just, the Succession should obtain after the same

All the Acts of Entail, in the Time of Hen. 8 were of his own Sollicitation.

1 Mar. Session. 2. C. 1.

Queen Mary.

1 Eliz. c. 3. Queen Elizabeth.

The Compleat Ambassador. f. 85, 86, 87.

same manner in the *Paternal Inheritance*, if the Custom of the places would allow it.

King James.

[1] 1 Jac. c. 1.

[2] Ibidem.

[3] Ibidem.

[4] Ibidem.

After the death of Queen Elizabeth, the *Act of Recognition*, made upon King James his coming to the Crown, doth not take notice of the Title raised by *Act of Parliament* to Henry the Seventh; and the Heirs of his Body: But declares [1] that he was *Lineally, Rightfully and Lawfully* descended of the Body of the most excellent Lady Margaret, eldest Daughter of the most renowned King Henry the Seventh, and the high and noble Princess, Queen Elizabeth, his Wife, eldest Daughter of King Edward the Fourth. The said Lady Margaret being eldest Sister of King Henry the Eighth, Father of the High and Mighty Princess of Famous Memory, Elizabeth, late Queen of England: [2] In consideration whereof, the Parliament doth acknowledge King James their only *Lawful and Rightful Liege Lord and Sovereign*. [3] And further say, as being bound thereunto both by the *Laws of God and Man*, they do recognize and acknowledge [4] that *Immediately upon the Dissolution and Decease of Elizabeth, late Queen of England, the Imperial Crown of the Realm of England, and all the Kingdoms, Dominions and Rights belonging to the same, did by inherent Birth-right, and lawful and undoubted Succession, descend and come to His most excellent Majesty, as being lineally, justly and lawfully next, and SOLE HEIR of the Blood-Royal of this Realm, as it is aforesaid. And thereunto they do most humbly and faithfully submit and oblige themselves, their Heirs and Posterities for ever, until the last drop of their Bloods be spent?*

What can be clearer, than that the *Succession* to the Crown of England was always thought, judged, had, taken and reputed to be from *Nextness* of Blood, by the Opinion of all sober Men, by *Law and Custom*; by this and other *Acts of Parliament, and Statutes* before cited.

This then being the *true History and Case of Succession* to the Crown of England, and its being only founded upon Proximity of Blood, the Author of the *Brief History of Succession*; &c. ought to have called it *An History of Usurpations, Seditions and Rebellions*. It was written and intended for a purpose he will not own; that is, to shew, that *In the English Monarchy there is not Right of Succession*; but that *Parliaments or Armies* may set up whom they please.

This, I confess, hath been practised in this Nation; and it was the main Cause of the War between the Families of *York and Lancaster*; that proceeding from the *Right* of the one Party, and *Possession* of the other, and the *Contrarieties* of *Acts of Parliament*, was caused by the *Alternate Victories* of both.

But the doing of a thing makes it not lawful: *Repeated Wickedness*, or the frequent Repetition of Wickedness, gives no *Authority* to any one to commit that Wickedness, as the frequency of *Auulteries* or *Robberies*, doth not justify either of them.

I think it's no good *Argument* to say, Edward the Second was deposed and murdered; therefore Richard the Second might be deposed and

and murdered; or, That they were both deposed and murdered, therefore Charles the First might be deposed and murdered; or, Because King Charles the First was deposed and murdered, therefore King Charles the Second may be deposed and murdered.

Precedents are of force only in things lawful, obscure or dubious; but never in things unjust.

A

The Depositions and Murthers of Edward the Second and Richard the Second, the Usurpations and unlawful Actions of Henry the Fourth and Richard the Third, were in their own times condemned by all good Men, even as the Actions of that Parliament began in 1641. in ours, which I suppose is the reason why the Author of the Pamphlet brings not them in as a Precedent; which would have served his turn better than all his other Instances.

B

But besides their impious Instances, we ought to take notice of the Expressions of these Men of Jesuitical Principles. They call Usurpation the Election of the People; a Faction, the Commonwealth; the Actions of a few they impute to all; They call Rebellion a just and judicial Proceeding; often and open Perjury, an orderly Revoking of a Sentence; God's secret Judgment in permitting Injustice to prevail, his owning and allowance thereof; the Inconsistency and present Humour of the heedless Multitude, (who judge of things, not by Reason or Justice, but either by Opinion, which commonly is partial; or else by Report, which is usually full of Incertainties and Errors, the most part Doing because others Do; all easie to be drawn in to serve any wicked and ambitious Mens Attempts) they call the presumed Will and Consent of the People: According to which (say they) the Succession of the Crown is to be directed. And by these Arts they do very much impose upon their unwary Readers.

C

D

To this History of Succession belongs the Act of the Thirteenth of Elizabeth, cap. 1. Intituled, *An Act whereby certain Offences are made Treason*; which, as many Great and Learned Persons think, was, upon the Debate and making of it, intended and designed to declare a Power in the Queen and her Successors for ever, by Authority of Parliament, to make Laws and Statutes of sufficient force and validity, to limit and bind the Crown of England, and the Descent, Limitation, Inheritance and Government thereof.

E

Sir Edward Coke [1] says, *Many Acts of Parliament are hardly to be understood, unless the History of that time be joyned thereunto*. This Parliament met [2] April 2. 1571. 13 Eliz. and was dissolved [3] May 29. following.

F

This Parliament, we see, was holden in the beginning of the Year 1571. Some Years before, but most especially in the Year 1570. immediately preceeding, there had been many Practices, and Seditious and Treasonable Contrivances against Queen Elizabeth, by Foreign, as well as Domestick Enemies: By the Pope and King of Spain, Duke of Guise in France, Duke d'Alva in the Netherlands, the Fugitive English, &c. abroad: And at home, frequent Conspiracies to deliver the Queen of Scots out of Prison, Attempts upon the Queens Person, the

Rot. Parl.
13 Eliz. n. 1.

[1] 4 Instit.
fol. 52.

[2] Pult. Stat.
[3] Com.
Journ. mart.
29 Maii, f. 39.

See Camden's
Eliz. An. Dom.
1568, 1569,
1570, 1571.

[4] Ibid. f. 171

Rebellion in the North by the Earls of *Northumberland* and *Westmerland*, the Match of the Duke of *Norfolk* with the Queen of *Scots*; [4] her Usurpation of the Crown of *England*, with the Title and Arms thereof; and the Bull of Pope *Pius* the Fifth, by which he declared her a Heretick, and for pretended Heresie, Anathematized her, &c. and by his *Usurped* and only pretended *Papal Authority* deprived her of her *Title, Dominions* and *Kingdoms*, and absolved all her Subjects from their Obedience and Allegiance.

A

[1] Ibid. 149.

All these, but [1] more particularly the Pope's Bull, and the Conspiracy of *Norfolk*, created much trouble in the mind of Queen *Elizabeth*: And she sent to the Queen of *Scots*, *Cecil* and Sir *Walter Mildmay*, to consult with her by what means most conveniently the Dissentions of *Scotland* might be compounded, her self restored, and Queen *Elizabeth*, and her young Son, safe and secure.

B

[2] Ibid. 1570.

Amongst the Propositions made to obtain these ends, these were two, [2] *That the Queen of Scots should renounce her Title and Claim, as long as Queen Elizabeth, and the Children lawfully born of her Body should live. That if the Queen of Scots should attempt any thing by her self, or any other, against Queen Elizabeth, she should, ipso facto, forfeit all her Right and Title she claimed to England.*

To which the *Deputies* of the Queen of *Scots* *Lieutenants* answered; *That the Title should be renounced as long as Queen Elizabeth lived: And That the Queen of Scots should be excluded from all Right of Succession in England, if she attempted any thing against the Queen of England's Right, so as if the Queen of England would be likewise bound in some equivalent Penalty if she should attempt any thing against the Queen of Scots.*

C

There was no Agreement upon these, and other Propositions then made, because the *Scots* *Deputies* thought them too hard and severe, and not to be assented unto without the greatest Inconveniencies imaginable.

D

And thence followed new *Designs* and *Contrivances* for the Relief of the Queen of *Scots*, &c.

[3] Ibid. f. 118

[4] Ibid. f. 126

127.

[5] Ibid. f. 128

The *Marriage* of the Duke of *Norfolk* with the Queen of *Scots* was first propounded [3] by her great Enemy, the Regent *Murray*; and afterwards carried on by the Earls of [4] *Arundel*, *Northumberland*, *Westmerland*, *Sussex*, *Pembroke* and *Southampton*, with many Barons, and by the Earl of *Leicester* himself; who, with his own hand [5] drew up Articles which he sent to the Queen of *Scots*, in number six; two whereof were, *That she should do nothing which might be prejudicial to the Queen of England, or to the Children born of her, in the Succession of the Kingdom of England. That she should revoke her Assignment of the Kingdom of England to the Duke of Anjou.* The occasion of this Article was, [6] that *Murray* had reported that the Queen of *Scots* had made over her *Title* to *England* to the Duke of *Anjou*, and that her Conveyance was confirmed at *Rome*: which the Queen utterly denied. And it was afterwards discovered to be an *Invention* of *Murray's* to alienate Queen *Elizabeth's* mind from her.

E

[6] Ibid. f. 118

F

To

To obviate all these *Mischiefs* and *Designs*; The Queen and her private Ministers, the Earl of *Leicester*, Lord *Burleigh* and Sir *Francis Walsingham*, thought fit to improve the *Insinuation* and *Overture* of a Match [1] made by the Queen Mother of *France*, but not very vigorously pursued until the Year 1571. 13 *Eliz.* and in the time of the *Sitting* of the Parliament of that Year, though 'twas not in that Assembly or their Journals taken notice of, it being * secretly managed by order of the Queen, by her two then great Confidants, the Earl of *Leicester*, and the Lord *Burleigh*, by the Mediation of Sir *Francis Walsingham*, then Ambassador in *France*. Whether *Leycester* meant honestly and seriously in this *Affair*, I cannot determine; * he made great Professions that he did; the then Posture of *Affairs* being represented to him by *Walsingham*, in a Letter dated from *Paris*, May 14. 1571. in these Words.

[1] *Ib.* f. 107.

* Compleat Ambassador, Queens Letter, f. 66. Burleigh's Letter, f. 69. Queens Letter, f. 83. & Qu. Let. f. 106. * *Ib.* f. 105, 108. June 7. 1571. *Ibid.* f. 96.

MY very good Lord, The Protestants here do so earnestly desire this Match, and on the other side the Papists do so earnestly seek to impeach the same, as it maketh me the more earnest in furthering of the same. Besides, when I particularly consider her Majesties Estate both at home and abroad, so far forth as my poor Eye-sight can discern; and how she is beset with Foreign Peril, the Execution whereof stayeth only upon the Event of this Match; I do not see how she can stand if this Matter break off. No particular Respect (as God is my Witness) moveth me to write thus earnestly, but only the Regard I have to God's Glory, and Her Majesties Safety.

Your Lordships to command,

Fr. Walsingham.

How necessary this Match was at this time, for the safety of the Queen and Nation, we have the Opinion of this great Statesman and Minister; with whom *Leycester* and *Burleigh* concurred in Opinion, as appears by their several Letters relating to these Transactions. And since the *French*, in the Sixth Article delivered in by the *French* Ambassador the thirteenth of April, 1571. propounded the Succession to be secured to the Issue of this Marriage, according to the Laws and Customs of the Realms; to which Queen *Elizabeth*, according to the common Opinion of the Understanding Men of those Times, not having Right by *Inheritance* or *Proximity of Blood*, might think by this Act of Parliament (that in effect doth grant the general Surmise) to make good her Title, and by this way and means to notify it to be according to the Laws and Customs of the Realm. For the Duke of *Anjou* could not but have notice of the pretended Defectiveness of her Claim, though not mentioned in the Treaty; and therefore this might haply be done, as much as could be, to meet with, and satisfy that Objection, if it should be made, and that this might be a private, though none of the great Considerations, of procuring and passing this Act. He that will but observe these Particulars of History, and will take the pains to compare them with this Act, may easily perceive it was made as a Provision against such things, pretences, and attempts for the future, during Queen *Elizabeths* Reign, as had then been done, used, and practised: it being then doubted

whether the *Laws* and *Statutes* of this Realm then in force, were sufficient for the Preservation of the Queens Person.

* Sabbati, 21
Apr. 1571.
fol. 18. b.

The Title of the Act is, *An Act whereby certain Offences are made Treason.* And the Bill in the Commons * Journal was called, *A Bill for Treasons.*

The Preamble upon the Parliament-Roll is, Forasmuch as it is of some doubted, whether the Laws and Statutes of this Realm, remaining at this present in force, areailable and sufficient enough for the Surety and Preservation of the Queens most Royal Person, in whom consisteth all the Happiness and Comfort of the whole State and Subjects of the Realm, which thing all dutiful, faithful, and loving Subjects ought and will, with all careful Study and Zeal, consider, foresee, and provide for; By the neglecting and passing over whereof, with winking Eyes, there might happen to grow the Subversion and Ruine of the Quiet and most happy State and present Government of this Realm, which God defend.

* Rast. Stat.
tit. Treasons,
n. 27. f. 554. a.

Therefore * it was Enacted, Declared, and Established, That if any Person or Persons whatsoever, within the Realm or without, should compass, imagine, invent, devise, or intend the Death or Destruction, or any Bodily harm, tending to Death, Destruction, Maim, or Wounding of the Person of Queen Elizabeth, or to Depribe or Depose her of or from the Stile, Honour, or Kingly Name, &c. or to Levy War against her Majesty within the Realm or without, or to move or stir any Forreigners or Strangers with Force to Invade this Realm; or if any Person or Persons whatsoever shall maliciously and advisedly declare and publish, That Queen Elizabeth during her Life, is not or ought not to be Queen of England, &c. or, That any other Person or Persons ought of Right to be King or Queen of the said Realm: or, That shall maliciously and advisedly set forth and affirm, That Queen Elizabeth is an Heretick, Schismatick, Tyrant, Infidel, or Usurper: That then all and every such said Offence and Offences shall be taken, deemed, and declared, by the Authority of this Act and Parliament, to be High Treason.

Ibid. b.

And be it also Enacted by the Authority aforesaid, That all and every Person and Persons, of what Degree, Condition, Place, Nation, or Estate whatsoever they be, which shall at any time in the Life of Queen Elizabeth, in any wise claim, pretend, utter, declare, affirm or publish themselves, or any of them, or any other than Queen Elizabeth, to have Right or Title to have and enjoy the Crown of England during or in her Life-time, or shall usurp the same Crown or Royal Style, Title, and Dignity, during or in her Life-time; or shall hold and affirm, That she had not Right to hold and enjoy the said Crown, or shall not (after demand) essentially acknowledge her to be in Right, true and lawful Queen: They and every of them so offending, shall be utterly disabled during their Natural Lives only, to have or enjoy the Crown or Realm of England, or the Style, Title, or Dignity thereof, at any time in Succession, Inheritance, or otherwise, after the Decease of the Queen,

Queen, as if such Persons were naturally dead: Any Law, Custom, Pretence, or Matter whatsoever to the contrary notwithstanding.

A And be it further Enacted, That if any Person shall, during the Queens Majesties Life, maintain, hold and affirm any Right in Succession, Inheritance, or Possibility, in or to the Crown or Realm of England, or the Rights thereof to be in any such Claimer, Pretender, Utterer, Declarer, Affirmer, Usurper, Publisher, or Not-acknowledger, shall be a High Traytor, and suffer and forfeit as in Cases of High Treason.

Ibid. f. 54. b.

B And for the Confirmation and making good what had in this Law been hitherto Enacted, as much as might be, it was further Enacted, That if any Person should in any wise hold and affirm, or maintain, That the Common Laws of this Realm, not altered by Parliament, ought not to direct the Right of the Crown of England; or, That our Sovereign Lady Queen Elizabeth, with and by Authority of the Parliament of England, is not able to make Laws and Statutes of sufficient force and validity to limit and bind the Crown of this Realm, and the Descent, Limitation, Inheritance, and Government thereof; or, That this present Statute, or any part thereof, or any other Statute to be made by the C Authority of the Parliament of England, with the Royal Assent of the Queen, for Limiting of the Crown, or any Statute for Recognizing the Right of the said Crown and Realm to be justly and lawfully in the most Royal Person of the Queen, is not, are not, or shall not, or ought not to be for ever of good and sufficient force and validity, to bind, limit, restrain, and govern all Persons, their Rights and Titles, that in any wise may or might claim any D Interest or Possibility in or to the Crown of England, in Possession, Remainder, Inheritance, Succession, or otherwise howsoever: Every such Person so holding, affirming, or maintaining during the Life of the Queens Majesty, shall be judged a High Traytor, &c. And every Person so holding, affirming, and maintaining, after the Decease of the Queen, shall forfeit all his Goods and Chattels.

Ibidem.

This Clause was mainly intended against the pretended Authority of the Pope, by which he deposed her.

E This Statute was a *peculiar Law* made for the Preservation of Queen Elizabeths Person and Title; and this last Enacting Clause and Paragraph was made to strengthen and confirm the former part of the Statute, which was a *Provision* and *Security* against such Pretences and Practices as were enumerated in the preceeding Historical Account.

F And if we consider how much (if not altogether) her Title to the Crown depended upon *Statute-Law*, and how Questionable her Birth-right was generally reputed to be, no man can much wonder, if for her own advantage and safety, she attributed more to an Act of Parliament than otherwise she would have done. She was necessitated to take this course, to establish her self against the Pretences of the Queen of Scots, when her Birth-right could not do it, it being very doubtful whether she was *Legitimate*, considering the Proceedings in the Divorce of Queen Kathetherine, Marriage of her Mother, and her Mothers

* 28 H. 8. c. 7.
Pul. Stat.

thers *Confession* * to Archbishop Cranmer, when the Statute was made for the declaring the Marriage null and void between *Henry* the Eighth and *Anne Bolein*, by which Statute she was also solemnly Bastardized.

* 1 Eliz. c. 3.

Ibidem.

And although Queen *Elizabeth*, at the entrance upon her Government, was acknowledged to be * *rightly, lineally, and lawfully Descended* from the *Blood Royal* of this Realm, which if true, had been a sufficient Title, She being then the *only remaining Issue* of *Henry* the Eighth; yet her right was recognized as depending upon the *Laws and Statutes* of the Realm, and by express mention of, and reference to the *Thirty fifth* of *Henry* the Eighth; by which Statute the Crown was settled upon her, and the *Heirs of her Body* lawfully begotten; in several places whereof, she is by the King her Father, *implicitly reputed*, and *declared illegitimate*, and the *settlement* in that Act is made to her, *as not being lawfully begotten*, or having right to inherit.

Ibidem.

In the first of her Reign before cited, when the Crown was declared to be vested in her, and that *Declaration and Recognition*, as also the *Limitation and Declaration* of the *Succession* of the Imperial Crown of this Realm mentioned and contained in the Act of 35 *Hen. 8.* were to stand, remain, and be the *Law of this Land for ever*. Which notwithstanding, when *Mary Queen of Scots* had claimed the Crown by right of *Inheritance*, and had spread abroad that Title unto it, and also the Title of the *House of Suffolk*, and other Titles were whispered up and down; the Act of 35 *Hen. 8.* or this Act of *Recognition*, were not thought sufficient to secure Queen *Elizabeth*. Then was this Act in the Thirteenth of her Reign, made meerly either to create or strengthen her Title, and not to Exclude the Queen of Scots from the SUCCESSION, unless she attempted any thing against her, or laid Claim to the Crown, which was also in its own nature a securing Clause to Queen *Elizabeth*.

But the great Clause of *Security* to Queen *Elizabeth* in this Act, was that Clause by which it was made Treason for any man to affirm, that she by Authority of Parliament, could not make Laws and Statutes to bind the Succession of the Crown, or that this Act or other Laws to be made by the Parliament of England by her Royal assent, for limiting the Crown, and recognizing the Right to be lawfully and justly in her Person, is not, are not, or shall not, or ought not to be for ever, of good and sufficient force. This Clause was levelled against the Opinion, That the Queen of Scots had the best Title; which began to spread, and gain much credit, as well amongst the Nobility as Commons: By all which it is manifest, this whole Act was but Temporary; and therefore we may note, with *Pulton*, that it expired with Queen *Elizabeth*; and it was no Act of Exclusion, but a Law only to secure her Person, and to make and confirm unto her a Title, which without Statute-Law was in it self at least doubtful. And the new Clause which was added, That it should be *High Treason*, during her Life, for any Person to affirm, she by Authority of Parliament had not Power to bind the Crown and Succession thereof; or, That the Right of the Crown and Realm was not justly and lawfully in her Royal Person; cannot affect the Title of a lawful Successor by Inheritance, nor be brought

brought or made use of as a *Precedent* to exclude him from the *Succession*.

But it may be said, There is a great Forfeiture inflicted upon every Person holding and affirming, *after her Decease*, That Queen *Elizabeth* and a Parliament could not limit the *Succession*, and fix the Crown upon her own Head.

A

This Clause could take no effect after her death, and therefore was added to preserve her Memory from being defamed after her Death, or slanderously charged with the *hainous Crime of Usurping* the Crown, which must have been the *inevitable Consequence* of affirming she and her Parliament could not limit the *Succession*.

B

For she valued much her *Credit* and *Reputation*, and would seem to maintain still, that she acted nothing against the Queen of Scots; and therefore the Law is made in *general Words*, against every Person or Persons whatsoever, of what Degree, Place, Nation, or Condition whatsoever, that should affirm she was not in Right true and lawful Queen, or that should claim the Crown, &c.

C

In the Point of *Succession* she could never be brought expressly by Name to exclude the Queen of Scots, or name any other Successor, as is clear from these several Passages in *Camden*.

D

Dudley, desirous by all means to oblige and obtain the Favour of the Queen of Scots, accused the Lord Keeper *Bacon* to the Queen, That he had intermeddled against the Queen of Scots in the matter of *Succession*; for which he lost the Queens Favour, and was, with much ado, at last restored to it again by the Mediation of *Cecil*, * upon which our Author says, *Certainly the Queen never heard any thing more unwillingly, than that the Right of Succession should be called in question or disputed.*

Camd. Eliz.
f. 73. A. D.
1564.

* Ibidem.

E

The same Year Queen *Elizabeth* hearing of a Match like to be between the Queen of Scots and *Henry Lord Darly*, to prevent it, advertised her, by her Lieger *Randolph*, That that Marriage was generally so disliked by all the English, that she had Prorogued the Parliament to another time, against the minds of her Council, lest the Estates of the Realm being incensed, should even for this cause Enact somewhat against her Right to the *Succession*. Which, that it might not be done afterwards, she recommended *Leycester* unto her for a Husband, whom chiefly for that Reason she had created Earl.

Ibid. fol. 75.

Jus Successionis.

F

In the Year 1566. a Parliament was called to meet on the First of November. They began to Debate roundly about the *Succession*; and the Earls of *Pembroke* and *Leycester*, and Duke of *Norfolk*, thought that an Husband was to be imposed upon the Queen, or a Successor publicly designed by Act of Parliament, even against her will. Whereupon they were excluded the Presence-Chamber, and denied Access to the Queen; but they soon submitted themselves to her, and obtained Pardon. Yet the Upper-House did by the Lord Keeper *Bacon*, advise, move, and pray her to Marry, and to appoint a Successor, if she or her Children should die without Issue.

Ibid. fol. 83.

Ibid. & f. 84.

But

Ibidem.

But some in the Lower-House handled these things more tumultuously. Bell and Monson, great Lawyers, Dutton, Paul Wentworth, and others, who grated upon the Queens Authority too much, and amongst other things maintained, That Kings were bound to design a Successor. At last they offered her far greater Subsidies than they were wont, upon condition that she would design a certain Successor. She absolutely refused that extraordinary Offer, and accepted an ordinary Sum, commending their Affection.

A

* Ibid. f. 89.

The last day of the Parliament she made a Speech, and gave the busie Men a smooth Reprehension. * I find (saith she) that in this Parliament DISSIMULATION hath walked up and down, masked under the Vizor of LIBERTY and SUCCESSION. Some of your Number there are, that thought it LIBERTY to dispute of the SUCCESSION, and that the Establishment of the same is absolutely to be granted or denied. If I had granted it, these Men had had their desire, and had triumphed over me; but if I had denied it, they thought to have moved the Hatred of my People against me, which my greatest Enemies could never yet do: But their Wisdom was unseasonable, and their Counsels overhasty, neither did they foresee the Event: Yet hereby I easily perceived who inclined toward me, and who were averse unto me, &c.

B

* Ibidem.

Upon this Speech Camden makes this Remark. * Thus a Womans Wisdom suppressed these Commotions, every day so qualified them, shining clearer and clearer, that very few besides such as were seditious and fearful, were troubled about a Successor. And certainly most men, whatever they pretend, have no more sense of Publick Matters, than what concerns their own Private.

C

* Mercur.
28 Maii, 1572.
fol. 53.

To these Testimonies of the Queens aversion to pass a Bill of Exclusion of the Queen of Scots, may be added a very clear and convincing one out of the Journal of the House of Commons, in the Fourteenth of her Reign, after the passing this Act, which is said so much to favor a Bill of Exclusion. Mr. Treasurer of the Household, Sir Francis Knolles, from the Queen, advised the House of Commons to go forwards against the Queen of Scots with a second Bill; * and that her Majesty minded not by any Implication or drawing of Words, to have the Scottish Queen either inabled or disinabled to or from any manner of Title to the Crown of England; and willed, That the Bill be drawn and penned by her Learned Counsel, before the same be treated of in the House; and that in the mean time of bringing in of that Bill, the House enter not into any Speeches or Arguments of that Matter.

D

E

* Compleat
Ambassador,
fol. 219.

With the Journal agrees a Passage in the Lord Burleigh's Letter * to Sir Francis Walsingham the Queens Ambassador in France, July 2. 1572. two days after the Parliament was Prorogued.

F

Now for our Parliament, I cannot write patiently: All that we laboured for, and had with full Consent brought to fashion, I mean, a Law to make the Scottish Queen unable and unworthy of Succession of the Crown, was by her Majesty neither assented to, nor rejected, but deferred until the Feast of All Saints. But what all other good and wise Men may think thereof, you may guess. Some here have, it seemeth, abused their Favour about her Majesty, to make her self her most Enemy.

God

God amend them. I will not write to you who were suspected. I am sorry for them; and so would you also, if you thought the suspicion to be true.

Your assured Loving Friend,
Will. Burleigh.

A This Parliament did not meet again until the *Eighth of February*, in the *Eighteenth year of the Reign of Queen Elizabeth*, unless there be any better Authority than Mr. Pulton's, in his Statutes, to make it appear that it did. And although there never was greater fear and danger of the *Introduction of Popery and Arbitrary Power*, by reason of the *Queen of Scots Religion*, her *Pretences and Practices*, and the expectation of great Assistance from abroad and at home, than at this time, yet we find not those that were suspected to have advised the Queen in this great Affair, to have been branded by Publick Vote, as *Betrayers of the Queen*, the *Protestant Religion*, and the *Kingdom of England*, *Promoters of the Scottish Interest*, and *Pensioners to Scotland*.

B This is a faithful Relation of the *Succession*. Whether I have fairly or partially cited the *Records and Histories* I have used, any Man (if he please) may inform himself. Whether it be expedient, just or lawful to go about to interrupt the *lawful Succession by Birth-right*, or to endeavour to break, or vacate the *Laws and Customs* of the Nation, by which it is *Established and Governed*, without any *Motion*,
C *Sollicitation*, *Procurement*, or *Intention* of the present true and lawful King by *Birth-right*, for and upon the *Suggestions* in the Bill mentioned, I leave it to the Consideration of all just and sober Men.

Which at most were but *Jealousies and Presumptions*, and yet were the *Foundation or Ground* (if it could have been done) to have made the Duke for ever *incapable to inherit, possess, or enjoy the Imperial Crown of England, &c.* and if at any time he had claimed or *indeavoured to possess* himself of it, he should be *adjudged Guilty of*
D *High Treason*; and all such as should any way *maintain* (his true, just, and most lawful Title) or *assist* him in *obtaining* those *Rights* which were due to him by the *Laws of God and Man*, were to incur the same *Guilt and Punishment*. And were also the *Motives* for his *perpetual Banishment*, after the *Fifth of November, 1680.* under the *Pains, Penalties, and Forfeitures*, as in *Case of High Treason*, if he should return; and the like to any *Persons* whatsoever, that should be *aiding or assisting* unto his Return.

E And then it was to be *Enacted and Declared*, that it should and might be *lawful*, To and for any *Magistrates, Officers, and other Subjects* whatsoever, within the *Kingdoms of England and Ireland*, and the *Dominions and Territories* thereto belonging, (a strange, general, and legal *Commission* for *Rebellion*) and that they should be *injoyned*, and required to apprehend and secure *James Duke of York*, and every other *Person* offending in any of the *Premises*, which were many (as appears by the *Bill* it self) and with him or them,
F in *Case of Resistance*, to *fight*; and him or them by *force* to subdue; for all which *actings*, and for so *doing*, they were and should be by virtue of that *Act*, saved harmless and indemnified.

This was a *Contrivance and Design*, to ruin the *Government* and destroy it, which any man, that had duely observed the *Practices* of these sort of men, about forty years before, might have seen through, with a very small light, though the *Managers* of it thought it so

dark and *Mysterious*, as that it was totally *invisible*. The *Net* was spread, and the *Snares* laid to catch all *Loyal* Subjects, and such as thought themselves bound in Honor and Conscience to preserve the *Laws* and *Government* of the Nation.

After the time limited for the Duke's Banishment, had been over, and he gone, it was but *accusing* as many as the *Contrivers* of the Bill pleased, for holding *Correspondency* with the Duke, with *intention* to bring him in again from his Banishment, who either by their quiet *Submission* to Rapine, or Plundering, and Imprisonment, were to be ruined and put to death at their pleasure; or in case of *Resistance*, to be fought withall, and subdued, and if they were, then to *undergo* the same Destruction. For here was an *unheard of* unlimited Power given to *Magistrates* and *Officers*, (who if this Act had once passed, they would have taken care, should have been for their purpose) and to the People to get together, and with *Force* and *Arms*, to have executed whatsoever *Seditious* men had infused into them; who would have soon instructed them in the Principles and Doctrine of *Calvin*, the *Presbyterians* and *Jesuits*, of *Deposing* and *Murthing* of Kings and Princes; which *Doctrine*, when the People had put in Practice, and gone on *step by step*, until they had arrived at a *perfect*, *cruel*, and *merciless* Rebellion, and destroyed the established Government (though many might see the *Cheat*, and by what *Arts* they were drawn in) yet then they must (for their own Security) have *thrown* themselves upon their *Directors* and *Managers*, and must have *submitted* to such an *Arbitrary* Power, and such an *Aristocratical* or *Democratical* Tyranny, or one compounded of both kinds; as they should have thought fit to have instituted. All which I think to have been made most manifest, by the since Treasonable Actions of many of those which *furiously* drove on the *Passing* of the Bill.

And for these very Reasons it was, that in the *Beginning* of this Treatise, I noted the Opinions of the *Presbyterians* about *Monarchs*, who if they conform not to their *Humours* and *Monarchies*, which if not *modelled* according to their *Fancy* and *Design*, they traduce and bring the *Subjects* into an evil opinion of them, and then set their *Engines* to work; The *inferior* *Magistrates* and *Officers*, the People or *Multitude*, or their *Representatives* in Publick Assemblies, to *batter* down, and *overturn* them; under the pretence of *setting* up and *defending* pure Religion, according to the Scriptures, and Preservation of Liberty and Property.

They that think they may lawfully rise up against the chief *Magistrates*, and *reform* what they judge, or will have to be amiss in the Government without his Consent, when they have Power to do it, and if need be, depose him; will also think, when they have Power, they may *alter* the *Succession*, when, and as often as the *humour* of the *Rabble* moves that way, and *Seditious* men shall insinuate and persuade it, as *necessary*, and dispose of the Crown to whom they think fit, if they shall *please* to continue the Monarchy; That they may do the *latter*, follows directly from their doing the former, which is the *Foundation* of that *Superstructure*. These *Dangerous*, *Seditious*, and *Treasonable* Opinions and Positions of *Presbyterians*, *Jesuits*, &c. which are scarce possible to be practised, without *Bloodshed* and horrid *Confusion* in any *Hereditary*, or well *Established* Monarchy, are taken up and pursued, by *Atheists*, men of loose, or no Principles or Religion; *discontented*, *malitious*, *proud*, *haughty* and *ambitious* self-conceited

conceited men, and such of good *Natural parts*, as have broken their Fortunes, who set up for Politicians, and make it their Business to infuse these Notions into the Heads of the Vulgar, and propagate them upon every opportunity, and for that end wandering from place to place, to find out People, and an occasion for their purpose, designing to satisfy their particular *Appetites*, their *mutinous* and *wicked* Humours, or repair or better their ruin'd Fortunes, by *Blood* and *Violence*; blaming *all men* that are not of their Temper; and *things* too, unless according to their *Conceptions*, which are most to be blamed.

But after all, there remains a *mighty*, and as those think, that would have it so, an *unanswerable Objection*, to be satisfied, and is to be found in Mr. *Hunts Postscript*, p. 31. as here it followeth. *Those that are truly Loyal to our present Sovereign, have reason to recognize with high satisfaction, that such a Power of altering and limiting the Descent of the Crown, is duely lodged in the King and States of the Realm: For under the Authority of an Act of Parliament of the Kingdom of Scotland, we derive our selves to the Happiness of his Government, and he his Title to the Crown of Scotland, which drew to him the Imperial Crown of England. For Robert Stewart, first King of Scotland of that Family, lived in Concubinate with Elizabeth Mure, and by her had three Sons, John, Robert, and Alexander; afterwards he married Eufame Daughter to the Earl of Rosse, and after was Crowned King of Scotland: He had by her Walter Earl of Arbol, and David Earl of Strabern: When Eufame his Wife died; he married Elizabeth Mure.*

After that, by one Act of Parliament, he made his Natural Children first Noble; that is to say, John Earl of Carricke, Robert Earl of Menteith, and Alexander Earl of Buckquhane and shortly after by another Parlement, he limited the Crown in Tayl successively, to John, Robert, and Alexander, the Children of Elizabeth Mure, in Concubinate, and after to the Children of Eufame Rosse, his legitimate Children, who are to this day in their Issue by this Limitation, by Authority of an Act of Parlement in Scotland, barr'd from the Crown, and we hope ever will be, by the continuance of the Line of our most Gracious King.

*Note, That though a subsequent Marriage by the Civil Law, which is the Law of Scotland, in such Cases doth Legitimate the Children of a Concubine, born before Marriage; yet it is with this Exception, That they shall not be legitimated to the prejudice of Children born afterward in Marriage, and before the Marriage of the Concubine: Besides the Reason of the Civil Law in legitimating the Children upon a subsequent Marriage is this, viz. a Presumption that they were begotten *in affectu Maritali*, which Presumption fails, where the Man proceeds to marry another Woman, and abandons or neglects his Concubine.*

This is the Argument, and this Mr. *Hunts* History of Matter of Fact and Law, That *Elizabeth Mure* was Concubine to *Robert* the Second King of Scotland, That she had three Sons by him, That he Married *Eufame*, and had by her two Sons, That after her Death he Married *Elizabeth Mure*, and that *John* the Eldest Son by her was King, and reigned by the name of *Robert* the Third, and his Issue after him, is agreed.

But whether he was, or could be sufficiently legitimated by this Marriage, and qualified for the *Succession*, or whether he did really Succeed by virtue of the Marriage, or by Act of Parliement, is the Question.

P. 31.

Ibidem.

Two Scotch Historians I have seen, who do give a short Account of this Affair. *Buchanan* in the Ninth Book of his *History of Scotland*, Printed at *Utrecht* 1668. P. 307. in the Reign of this King, says, *Rebus primo Biennio feliciter succedentibus, Tertio ab initio Regno Anno, Eufemia Regina Hugonis Comitis Rossie filia, moritur. Ex ea Rex ternos liberos genuerat; Walterum Fernie, & Davidem Atholie Comites, & Eufemiam Jacobo Duglassio nuptam. Robertus non tam impatientia calibatus, quam Amore filiorum, ex Elizabetha Dora prius genitorum, ipsam uxorem duxit; Hinc enim eleganti forma Adami Mori illustris equitis filiam, adhuc adolescens vehementer amarat; ex eaque tres filios, ac duas filias suscepit, eamque* * *Gisardo viro Nobili in Lothiana curaverat Collocandam; verum sub idem fere Tempus, Eufemia Regina, & Gisardo, Elizabethæ Marito, defunctis, Rex sive consuetudine veteri Dore inductus, sive quod (à multis traditur) ut filios quos ex ea genuerat, Legitimos faceret, matrem eorum sibi Matrimonio junxit; filios statim Divitiis & Honoribus auxit, Johannes Natu maximus Car-*

* This is not to be found in *Hector Bois*, or *Boethius*.

* The Titles of these are mistaken, they are otherwise in the Act of Parliament.

*riæ, * Robertus, Caichie, Alexander Buchanie Comites sunt facti, nec hac munificentia contentus, Comitibus ad Sconam indictis, obtinuit ut præteritis Eufemiæ liberis, in Rege creando gradus ætatis observarentur.* That is, In the first two years of King Robert the Second, things succeeded happily, in the Third *Eufeme* the Queen, Daughter of *Hugh* Earl of *Rosse* died, by her the King had three Children, *Walter* Earl of *Fern*, *David* Earl of *Athol*, and *Eufeme* married to *James Duglass*. *Robert* not so much for the impatience of a single Life, as for the love of the Children he had begotten of *Elizabeth Dore* married her, for when he was a young man, he had vehemently loved this very Beautiful Woman, the Daughter of *Adam More* an Illustrious Knight, by her he had three Sons and two Daughters, and had married her to one *Gisard* a Noble-man in *Lothian*, but about the same time, *Eufeme* the Queen, and *Gisard* the Husband of *Elizabeth Dore* died. The King, either induced by the old Familiarity that had been between them, or which is reported by many, That he might make *Legitimate* the Children he had by her, married her, and bestowed upon them *Honor* and *Riches*, *John* the Eldest, was made Earl of *Carria*, *Robert* of *Mentieth*, and *Alexander* of *Buchan*. Nor content with this Munificence, he called a *Parlement* at *Scone*, and obtained, That the Children of *Eufeme* being postponed, in creating a King, *Priority of Age* should be observed.

The other Account of this Affair, *Hector Boethius* gives us, in his *History of the Scottish Nation*, Book the 16th, f. 328. a. n. 10. and relates it thus, * *Sed priusquam Eufemiam Robertus duxisset uxorem, consuetudinem cum Elizabetha filia Adæ Buir Equitis Aurati habuerat, quæ tres illi filios peperit, Johannem qui Roberto patri in Regnum postea successit, Robertum & Alexandrum, & duas filias. * Tertio Regni anno Roberti, Eufemia uxor ejus fato functa est. Tum Robertus Elizabetham uxorem duxit, ut quos * ex ea liberos suscepit (impendio enim eos amabat) legitimos redderet. Eodem Anno filios Agris donavit, Johannem Comitem Carictæ effecit, ac Scotiæ Senescallum, Robertum Comitem Fife & Mentieth, Alexandrum dominum Badzenothæ, Davidem ex Eufemia primogenitum Comitem Erne-vallis, i. e. Straßern, Walterum Comitem Atholie; * Ceterum rationem Successionis hoc modo instituit, nempe ut Johannes primus omnium succederet, quo defuncto sine prole mascula, Robertus, qui si sine filio quoque decederet, Alexander in locum ejus subiret: Quod si eadem ille fortuna*

* This Relation agrees not with the Act of Parliament and Charters cited by Sir *George Mackenzie*.

* r. 28 a. n. 40.
* Ibid *Histor. Hect. Boeth.* f. 328 b. lin. 2. &c.

* This Declaration of the Succession agrees with the Act of Parliament.

nullo

nullo relicto filio, ex hac vita excederet, tum **David**; si vero, & illum idem casus sequeretur, tum ad **Walterum** Regni perveniret Successio, verum ut sunt res Mortalium caduce, si ex omnibus illis Mascula nulla relinqueretur soboles, proximus è sanguine Regio quisquis ille foret, in Rem *Scoticam* succederet.

Atque hac sunt in **Publico** **Præterum** Regni **Consilio** celebrato **Scone**; Juratumque ab omnibus est, eam Constitutionem perpetuo se servaturos, tutaturosque.

In *English* thus, Before **Robert** married **Eufeme**, he had familiarity, and accompanied with **Elizabeth** the Daughter of **Adam Muir** Knight, by whom he had three Sons, **John** which succeeded his Father **Robert** in the Kingdom, **Robert** and **Alexander**, and two Daughters. In the third year of the Reign of **Robert**, **Eufeme** his Wife died. Then he married **Elizabeth**, that he might Legitimate the Children he had by her, for he loved them beyond measure. The same year he gave his Sons Estates, he made **John** Earl of **Caria**, and Steward or *Seneschal* of *Scotland*, **Robert** he made Earl of **Fife** and **Denterb**, **Alexander** Lord of **Badzenoth**, **David** his eldest Son by **Eufeme**, he made Earl of **Strathern**, and **Walter** Earl of **Athol**: But he ordained the Succession after this manner. That **John** should first succeed, and after his Death, without Issue Male, **Robert**, and after him, if he left not a Son, **Alexander**, and if he happened to dye without Issue Male, then **David**, and if his Case should be the same, then **Walter**; but as it may happen, if none of them have Issue Male, the next of the Royal Blood, who ever he be, shall succeed in the Kingdom of *Scotland*.

These things were done in a Publick Council of the Nobility or Great Men of the Kingdom, celebrated at *Scone*; and they all swear perpetually to observe and defend this Constitution. This King **Robert** began his Reign *Anno Domini* 1371. This Council was holden at *Scone* in the third year of his Reign, which was *Anno Domini* 1373. or 1374.

We see in both these Historians, that the Succession was grounded upon Legitimation, and that upon Marriage, according to the Law and Constitution of *Scotland*, which Mr. *Hunt* says, is the Civil Law. So that the Succession was not gained or established by Act of Parliament, if any such were, but by Law, and the Act of Parliament was grounded upon that Law, and was only a Confirmation of it. But says Mr. *Hunt*, this could not be in this case, for the Foundation of Legitimation by the Civil Law, which was, *Affectus Maritalis*, was here destroyed, by King **Robert's** Marriage with **Eufeme**, for where Children have been legitimated by subsequent Marriage, it was presumed they were begotten *Affectu Maritali*, and that was to continue without Interruption, until the time of Marriage. This is the strength of Mr. *Hunt's* Argument; but the Law was otherwise, for by that it was only required, that they were both single Persons, and Chast, that is, that neither the Man kept or enjoyed any other Woman, nor the Woman enjoyed or kept company or lived with any other Man, during their Concubinate. The Issue or Children begotten between such Persons, was accounted, and had the name of natural Issue, or Children, and were only capable of being Legitimated by the Civil or Canon Law, and these were Conditions, upon which Legitimation by subsequent Marriage, and Right of Inheritance was grounded, all other Children begotten by married men, upon single Women, or by men that kept, or

See Forsterus, de Success. Honorum. de Concubin. Tractat. Tractat and almost all Civilians.

had

* i. e. Mulier,
innupta libera,
sola, & casta.

had many Concubines, or upon Women that accompanied with more Men than one, were esteemed spurious, and incapable of Legitimation by Marriage. But the former might, though there were just Children after begotten upon another Woman in lawful Marriage: The Case is in **Valentin Forsterus** *de Successionibus*, l. vi. cap. 23. Thus put. A Man hath a * Concubine, and Children by her, he Marries another Woman, and hath Children by her, the Wife dies, and he Marries the Concubine: The better Opinion in the Civil or Imperial Law is, That the Marriage with the Concubine, Legitimizes her Children, notwithstanding the former or intermediate Marriage, and that they shall succeed in, and inherit the Father's Estate; And although the **Affectus Maritalis**, which the Civil Law presumes to be between the Man and his Concubine, was for a time diverted by an intermediate Marriage; yet that being dissolved, or the Wife being dead, the same affection may be reintegrated and renewed with the same Concubine; which by the Imperial or Civil Law, was sufficient to warrant the Legitimation of the Concubines Children upon his Marriage with her, *Ibid.* c. 23. n. 17. The same Opinion is in the same Case, after a full Discussion of it, to be found in *Tractat. Tractatum. Tom. 8. Part 2. f. 78. n. 43, 44, &c. De Legitimatione.*

If the Law at this time in Scotland, had been the same with the Law of England, Mr. Hunt's Argument might have been somewhat, though not much to the purpose; for the whole Contrivance and Management of this Affair, and the Act of Parlemt was procured by the Kings Solicitation: When as this Bill concerning the Duke was contrived, and carried on by a desperate Faction in the House of Commons, which mightily alters the Case, and so doth the difference between the ancient Laws of England, and Scotland; for by the Evidence of both these Historians, as well as Mr. **Hunt's** Confession, Children begotten before Marriage, were Legitimated by Marriage, and made capable of inheriting, by the ancient Law of Scotland; but in England it was not so, for **Glanvill**, the antientest English Lawyer Extant, * says, That although according to the Canons and Roman Laws, a Son born before Marriage, might inherit, yet according to the Law and Custom of England he could not, nor by right so much as demand his Fathers Inheritance; and this opinion of his is confirmed and declared to be Law by Act of Parlemt, in the Twentieth of Henry the Third, Stat. of Merton, Cap. 9. *To the King's Writ of Bastardy, whether one being born before Matrimony, may inherit in like manner, as he that is born after Matrimony: All the Bishops answered, That they would not nor could not answer to it, because it was directly against the common order of the Church. And all the Bishops instanted the Lords, that they would consent, that all such as were born afore Matrimony, should be Legitimate, as well as they that be born within Matrimony, as to the Succession of Inheritance, for so much as the Church accepteth such for Legitimate; And all the Earls and Barons, with one voice, answered, That they would not change the Laws of the Realm, which hitherto had been used and approved.*

Buchanan had his Relation of this Transaction from **Heitor Boethius**, but reports it not fairly after him, for he bends and warps it toward his own malicious opinion, as much as he can, That Scotland was an Elective Monarchy, in his *Tract de Jure Regni apud Scotos*, and from Buchanan or from them both, Mr. Hunt, I presume, had his History and Argument, and bends it, as Buchanan did before,

* Lib. 7. c. 15.

before, the Relation of *Boethius*, and fits it to patronize his opinion.

A This was the Answer to Mr. *Hunt*'s Argument, supposing the Relations of matter of fact by *Hector Boethius* and *Buchanan* to have been true. But since the publishing of * *Jus Regium* by Sir George *Mackenzie*, the Kings Learned and Worthy Advocate in Scotland, and since by the means of the Right Honorable the Earl of *Clarendon* I have had the perusal of a Copy of this very Act of Parliament transmitted to him, from Sir George, I find their Relations to be false; For according to the then Law, *Elizabeth Quir* was *Robert* the Second his First and lawful Wife, and that his Issue by her were lawful Issue, and that she was Dead when he married *Eufaine* the Daughter of the Earl of *Rosse*, who was his second Wife, as is clear from the Discourse in the *Jus Regium*, and right of Succession before cited, as it here immediately follows, taken out of that Treatise. And by the Act it self Printed in the Appendix, Record 18. B it is evident that neither *Hector Boethius*, *Buchanan*, nor Mr. *Hunt* ever saw it.

* P. 194, 195, &c.

The Discourse of the Learned Advocate upon the Act of Parliament; The substance whereof in English is this.

C T Hat a Parliament being called at Scoon the 4th of April, Anno 1373. and third year of the Reign of King *Robert* the Second, on purpose to secure the Succession, and to prevent all Disorders that might afterwards arise in any part of the Kingdom about Titles to the Crown; It was Enacted by the said King *Robert* the Second; with the Advice and Consent of the whole Three Estates, That the Sons then born to the King by his first and second Wives, and their Heirs should in order succeed to the King in manner after specified: That D is to say, that his Eldest Son by the first Marriage *John* Earl of *Carriack* should immediately succeed, as had been already declared in the preceding Parliament, and after him his Heirs; And in case he died without Issue, that his Brother, *Robert* Earl of *Monteith* the Kings Second Son of that Marriage should succeed, and his Heirs: which failing, that *Alexander*, Earl of *Badenoch*, the Kings Third Son of that Bed, and his Heirs, should Inherit the Crown; And in case that failed, that *David* Earl of *Strathern*, the Kings Fourth Son by E his Second Wife, and his Heirs should succeed: And that failing, that *Walter* the King's Fifth Son, by the said Second Wife and his Heirs, should Inherit the Crown. And if it should happen that the said Five Sons and their Issue should fail, that then the next in Blood of the Royal Line should succeed. Which Act all the Three Estates did for themselves and their Heirs for ever, solemnly Swear to observe, as is more at large to be seen in the Original it self, in the Appendix Record 18.

P. 194, 195, 196, 197, 198, 199, 200, 201.

F And if the pretended Defect be true, it was a very palpable and a very undeniable one, and could not but have been unanswerably known to the whole Nation. And how can we imagine that the whole Parliament would have unanimously drawn upon themselves so dreadful a Perjury, by Excluding the Lawful Heir, against their National Oath in the Reign of King *Kenneth* the Third, whereby they swore to own always the immediate Heir, or that they would have

have entailed upon themselves a Civil War, by preferring even a questionable Heir, after the Miseries which they had lately then felt, in the Competition betwixt the *Bruce* and the *Baliol*, amongst which *Seals* the *Seal* of *James Earl of Dowglas* is one, and how ridiculous is it to think, that he would sit and declare a *Bastard* preferable to the Brother of his own Lady, and to his own Lady who would have succeeded, if her Brothers had dyed without Succession? Which Act of Parliament does also clearly prove, that *Buchanan* did not at all understand matters of Fact in this part of the History; for he asserts that after the death of *Euphan Ross*, the King married *Elizabeth Muir*, and did by Act of Parliament obtain the Crown to be settled upon *Robert the Third*, Son to the said *Elizabeth Muir*, upon whom he also bestowed the Title of *Carrick*; All which is most false, for this Act of Parliament is dated in Anno * 1371. and King *Robert the Second* succeeded to the Crown that year, nor did *Euphan Ross* die till the third year after he succeeded to the Crown, and so not till the year 1374. and yet in Anno 1371. this Act is past, designing him Heir to the Crown, and Earl of *Carrick*, and consequently he was so designed before the death of *Euphan Ross*.

* He must mean the first Act by which *John* was declared Successor to the Crown, or the Transcriber hath dated this Act false.

I have seen a Charter granted by King *Robert the Second*, when he was only Steward of Scotland, in Anno 1365. and so long before he was King. In which Charter likewise, *John*, thereafter King, by the name of *Robert the Third* is a conjunct Disposer with him, under the express designation of the eldest Son and Heir. *Robertus Senescallus Scotiæ, Comes de Strathern, & Joannes Senescallus primogenitus & Heres ipsius Dominus Baronia de Kyle, &c.* which Charter confirms to the Abbey of *Passey* several Lands disposed to them by *Reginaldus More*, Father to Sir *William More* of *Abercorn*. And I find that *David Duke of Rothsay*, was always in the Charters granted by his Father King *Robert the First* called *Primogenitus*, and he was no *Bastard*, nor can this designation be given to a *Bastard*, as is clear by *Covaruvias de Matrim.* Part 2. Chap. 8. §. 2. Num. 4. But how can it be imagined that the Monks of *Passey* would have taken a Right from a Person as Heir to the Crown, who was not; for this would have infer'd Treason against them; beside the annulling their Right? or who could understand better the lawfulness of a Marriage than a body of Church-men living in the time, and very near to the Residence of the married Persons, and in whose Conventual Church the said King *Robert* and *Elizabeth Muir* lye buried together?

Item, I have seen in the Registers another Charter granted by King *Robert the Second*, in the first year of his Reign, with the consent of *John Earl of Carrick, Primogenitus & Heres, Allano de Labidia terrarum de Whitflet*; and another granted by the said King, June 1. anno primo Regni, confirming to *Paul Metire* a Charter granted by the Earl of *Ross* Father to *Euphan*, wherein the said *John Primogenitus & Heres* is a Witness.

And to shew that the said *Euphan Ross* was then living when he was so design'd Heir, there is a Charter to her by the King, upon the very same day of the Lands of *Lochleven*. As also there is a Charter granted by King *Robert the Second*, the First year of his Reign, to *Alexander* his Son, and another to *John Kennedy* of the Barony of *Dalrymole*, in both which the said *John Earl of Carrick* is called *Primogenitus*, and is witness with the Earl of *Dowglas*; so that he has been designed eldest Son and Heir openly, uncontrovertedly, and in all Papers, and with the consent of the Second Wife, and her Relations.

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In the Parliament 1372. the said John Earl of Carrick, is design'd to be Lieutenant of the Kingdom, and all the Estates of Parliament Swear to own him in his Government, and which Statute is Printed amongst the * Statutes of King Robert the Second, Father to the said John, and which must be during the Marriage with Euphan Ross, for she lived three years after her Husband was King, and he Succeeded to the Crown Anno. 1371. And this also confutes Buchanan, who asserts, that he was Created Earl of Carrick after the death of Euphan Ross, and it is against all sense and reason to think that he could have been acknowledged during her life, if he had not been the true apparent Heir of the Crown, and lawful Son.

* C. 17. Sect. 2.
3. 4.

I have also seen in * Fordon's History, lib. 14. page. 73. a Charter granted by King David to the Bishops, with the consent of Robert his Nephew, and his Sons giving power to the Bishops to dispose in Testament upon their own Moveables, which before that time did by a corrupt Custom fall to the King, in which Charter the Witnesses are, Robertus Senescallus Comes de Strathern, Nepos noster Joannes Senescallus Comes de Carrick, filius suus primogenitus & Heres, Thomas Comes de Mar, Georgius de Dunbar, Comes de March, & Gulielmus Comes de Douglas; So that here is not only the attestation of the Father before he was King, naming John Earl of Carrick, thereafter King Robert the second his Eldest Son and Heir, but the attestation of the Grand-Uncle King David, who could be no wayes byassed in the affair; And here he is ranked before the three eldest Earls in the Nation, who were then the three first Subjects therein; And it is against all sense, to think that the whole Bishops would have sought the consent of the said John as apparent Heir of the Crown, if he had not been apparent Heir. I find also that Fordon calls him when he is Crowned King, Primogenitus Roberti Secundi; Nor was there the least opposition made to his Coronation, nor to the Coronation of Annabella Drummond his Queen, (a Daughter of the House of Stob-hall, now Pearth) though both the Sons of the second Marriage were then alive. I find also, that Boetius himself acknowledges that the Earl of Marches Son George, being pursued for having Married clandestinely one of the Daughters of Elizabeth Muir, his defence was that he Married her when she was the Daughter of a private Subject, and before King Robert was King, whereas if she had been only a Bastard Daughter, it could have been no Crime to have Married her.

* That History I suppose with the additions and interpolations of Mac-cullon.

I shall to this only add what I saw in Fordons Scotichronicon in the Hands of the Learned Dr. Gale Master of St. Paul's Schole, London, a Transcript whereof he at my Request made me.

Robertus Rex quando fuit Comes de Carrik duxit in Uxorem Isabellam Sororem Gartnay Comitiss de Mar, De qua genuit unicam filiam nomine Marjorie, qua nupsit Waltero Sener Scoto, de qua Idem Walterus genuit unicam filium nomine Robertum Sener postea Regem. Iste Robertus Copulavit sibi De facto unam de filiabus Ada More Militis, de qua genuit filios & filias Extra Matrimonium, Quam postea impetrata Dispensatione sedis Apostolica, & optenta, Desponsavit Canonice & forma Ecclesie, Anno Domini: M C C C XLIX.

Robert the first.

This Scotichronicon, this very Book in all probability was the Book of Hector Boethius, for in the Bottom of the first leaf of this Manuscript are written these words, in an ancient Hand Different from the Manuscript it self. Collegii Abud. Ex Dono Magistri Hectoris Bois primi primarii Ejusdem; and in the same hand there are many Marginal Notes throughout the Book. This agrees not with what Hector Boethius relates in his History, nor doth his report agree with the Act of Parlement; and therefore Sir John in his Genealogy of the French Kings and all that have followed him have been deceived. And Buchanan hath super-added a Malitious Fable to Hector's Relation, which he forged, or never minded this Fordon that was his own Book, nor most certainly had never taken notice of the Act of Parliament.

A Parallel or Comparison between some Citations in the Author of the *Brief History of Succession, &c.* And the Words of the Authors themselves.

Author of the Brief Hist. fol. 1. in the Margin.

Edwardum Elegerunt, Electum consecraverunt, & in Regem unxerunt. Sim. Dunelm. An. 975. f. 160.

Fol. 3. in the Margin.

Hic Robertus semper contrarius & adeo innaturalis extiterat Baronibus Regni Angliæ quod plenario consensu & Consilio totius Communitatis Regni ipsum refutaverunt & pro Rege omnino recusaverunt & Henricum fratrem in Regem erexerunt. Hen. de Knighton, c. 8. 2374.

Fol. 4. In the Notes in the middle of the Folio.

In Conventu Episcoporum, & aliorum de Regno optimatum, Mat. Westm. f. 246. an. 1153.

Fol. 4. In the Margin.

Convenerunt interim die Statuto ex Mandato Regis ad Londoniam totius Angliæ Episcopi, Abbates, Comites, Barones, Vice-Comites, Præpositi, Aldermanni cum Fide-jussoribus,

Sim. Dunelm. Anno 975. col. 160. n. 40.

Edwardum, UT PATER SUUS PRÆCEPERAT, Elegerunt, Electum consecraverunt, & in Regem unxerunt.

Hen. de Knighton, col. 2374. c. 8. c. 10.

Iste Robertus semper contrarius & adeo innaturalis extiterat Baronibus Regni Angliæ quod plenario Consensu & Consilio totius Communitatis Regni, IMPOSUERUNT EI ILLEGITIMITATEM QUOD NON FUERAT PROCREATUS DE LEGITIMOTHORO WILLIELMI CONQUESTORIS, UNDE UNANIMI ASSENSU SUO, ipsum refutaverunt & pro Rege omnino recusaverunt & Henricum fratrem ejus in Regem erexerunt.

Mat. Westm. f. 246. an. 1153. n. 10.

Rex Stephanus omni hærede viduatus præter solummodo Henricum Ducem recognovit, in conventu Episcoporum & aliorum de Regno optimatum. Quod Dux Henricus jus hæreditarium in Regnum Angliæ habebat, & Dux benigne concessit ut Rex Stephanus tota vita sua suum Regnum pacifice possideret.

Chronica Gervasii, col. 1412. lin. 4.

Convenerunt interim die Statuto ex Mandato Regis ad Londoniam totius Angliæ Episcopi, Abbates, Comites, Barones, Vice-Comites, Præpositi, Aldermanni, cum Fide-jussoribus,

bus, Gervas, Hen. 2. fol. 1412. And, fol. 4. in the Body of his History, says, *this was a Parliament in which Henry the Second procured his Son Henry to be declared King, together with himself, by their consent.*

bus suis timentes valde omnes. Quisque juxta conscientiam suam metuebat, nesciebant enim, Quid Rex statueret decrevisset ipsa die Henricum filium suum qui eadem septimana de Normannia venerat militem fecit, statimque eum, stupentibus, cunctis & mirantibus, in Regem ungi præcepit & coronari. Not one word here, or in all this Story of this Author, of their declaring him King.

Brief History, fol. 5. in the Margin.

Post tam Cleri quam Populi solennem & debitam electionem, Rad. de Diceto, fol. 647.

Rad. de Diceto, *Imagines historiarum*, col. 647. n. 40.

Comes Itaque Pictavorum Ricardus HÆREDITARIO JURE PROMOVENDUS IN REGEM *post tam Cleri quam Populi solennem & debitam electionem, &c.*

Ibid. fol. 5. In the Body of the History.

King John applies himself to the People for a more sure Title [d] who being summoned together, chose him King.

Ibid. in the Margin, [d]

Prælatorum Comitum & aliorum Nobilium infinita multitudo, Brompt. 1281.

Chron. Johan. Brompt. col. 1281. n. 40, 50.

Johannes ab Huberto Archiepiscopo Cantuariensi in Ecclesia B. Petri Westmonasterii INUNGITUR ET IN REGEM ANGLIÆ CORONATUR ASSISTENTE *Prælatorum, Comitum, BARONUM & aliorum Nobilium infinita multitudo.*

Fol. 10. in the Body of the History.

Please it your Grace to understand the consideration, Election and Petition of the Lords Spiritual and Temporal, and Commons, &c. Cot. Rec. fol. 709. This is all considerable which he cites out of this Record.

Exact Abridgment of Records in the Tower, fol. 709, 710, 711, &c.

This is a very long Record, and this is all considerable he cites out of it; whereas the whole Title of Richard the Third from Parliament in this Settlement is grounded upon his being (as they pretended) the only true, right and lawful Heir. See what is noted of this Record, and said concerning Richard the Third in this History.

Fol. 11. in the Body of the History.

In the 25th year of Henry the Eighth, an Act passed, wherein the Parliament, in the Preamble, say, *They were BOUNDEN to provide for the perfect Surety of the* Suc-

Pult. Stat. 25 H. 8. c. 22. The Preamble.

In their most humblewise shewn unto Your Majesty, your most humble and obedient Subjects, the Lords Spiritual and Temporal, and Commons in this present Parliament, &c.

Succession. They did not certainly reckon themselves bound to do a thing that was not in their Power, Stat. 25 H. 8. c. 22.

&c. That since it is the natural Inclination of every Man to provide for the Surety both of his Title and Succession, although it touch his only private Cause: We therefore reckon our selves much more BOUNDEN TO BESEECH AND INSTANT YOUR HIGHNESS TO FORESEE AND PROVIDE for the PERFIT SURETY OF BOTH YOU and your MOST LAWFUL SUCCESSION and HEIRS, upon which dependeth all our Joy and Wealth; in whom also is united and knit the only meer true Inheritance and Title of this Realm, without Contradiction.

These are some of his many wilful Mistakes; and indeed, there is scarce one Instance in the Pamphlet, that is not either falsely cited, or falsely applied.

THE

THE APPENDIX.

A Catalogue of all the Tenents in Capite or Serjanty, That held all the Lands in every County of the King, as they are to be found in Domesday Book, set before each County: The King is always placed first, and his and the Crown Lands Described under the first Title of Terra Regis, and the rest follow in their Order, according to the Numbers, as Terra Sanctæ Trinitatis de Cantorburia. Terra Episcopi Londoniensis, &c. with all their Tenents Names that held their Towns, Mannors, Lands, and Tenements, under them, &c.

Record 1.

Esseffa.

XXV Eudo Dapifer.
XXVI Rogerius de Otburnill.
XXVII Hugo de Montfort.
XXVIII Hamo Dapifer.
XXIX Henricus de Ferrariis.
XXX Godfridus de Magna villa.
XXXI Comes de Ow.
XXXII Robertus Greño.
XXXIII Radulfus Baignardus.
XXXIV Ranulphus Piperellus.
XXXV Albericus de Ver.
XXXVI Petrus Valoniensis.
XXXVII Ranulphus frater Ilgerii.
XXXVIII Tibellus Britto.
XXXIX Roger. de Ramis.
XL Johannes filius Walerani.
XLI Robertus filius Corbutionis.
XLII Galfridus Diaconus.
XLIII Roger. Bigotus.
XLIV Robertus Malet.
XLV Willielmus de Scohies.
XLVI Roger. Piçtaviensis.
XLVII Hugo de Gurnay.
XLVIII Willielmus Piperellus.
XLIX Radulfus de Limefeio.
L Robertus de Todeneio.
LI Radul. de Todeneio.
LII Walt. de Doai.
LIII Matheus Mauritanienfis.
LIV Comitissa de Albenzarla.
LV Judith Comitissa.
LVI Frodo frat. Abbatis
LVII Saiselinus.

A

LVIII Gissebertus

I Willielmus Rex Anglor.
II Sancta Trinitas de Cantorburia.
III Episcopus Londoniensis.
IV Feudum ejusdem Episcopi.
V Canonici Sancti Pauli.
VI Abbatia de Westmonasterio.
VII Episcopus Dunelmensis.
VIII Canonici de Waltham.
IX Abbatia de Berkinges.
X Abbatia de Eli.
XI Abbatia Sancti Edmundi.
XII Canonici Sancti Martini Londoniensis.
XIII Abbatia de Bello.
XIV Sanctus Walericus.
XV Abbatia Sanctæ Trinitatis de Cadomo.
XVI Abbatia Sancti Stephani de eodem.
XVII Abbatia Sancti Andoeni.
XVIII Episcopus Siasensis.
XIX Episcopus Herefordensis.
XX Comes Eustachius.
XXI Comes Alanus.
XXII Willielmus de Warennæ.
XXIII Ricardus filius Comitis Gilberti.
XXIV Suenus de Esseffa.

LVIII Gislebertus filius Turolti.
 LIX Willielmus Leuric.
 LX Hugo de Sancto Quintino.
 LXI Edmundus filius Algoti.
 LXII Roger. Mareſcallus.
 LXIII Adamus filius Durandi.
 LXIV Goſcelinus Loremanus.
 LXV Johannes Nepos Walerami.
 LXVI Willielmus Diaconus.
 LXVII Galt. Cocus.
 LXVIII Modvinus.
 LXIX Ilbodo.
 LXX Haghebertus.
 LXXI Tedricus Pointel.
 LXXII Roger. Deus Salvat Domin.
 LXXIII Gislebertus filius Salomonis.
 LXXIV Willielmus filius Constantini.
 LXXV Anſger. Cocus.
 LXXVI Robertus filius Roſcelini.
 LXXVII Radus Pinel.
 LXXVIII Robertus filius Goberti.
 LXXIX Rainaldus Baſtarius.
 LXXX Godvinus.
 LXXXI Otto Aurifaber.
 LXXXII Gislebertus Preſbyter.
 LXXXIII Grimus.
 LXXXIV Ulvena.
 LXXXV Edwardus.
 LXXXVI Turchillus.
 LXXXVII Stanardus.
 LXXXVIII Godvinus.
 LXXXIX Liberi Homines Regis.
 LXXXX Invaſiones.

Theſe Liberi Homines Regis, were Taini, or
 Servientes Regis.

Norfulc.

I Willielmus Rex.
 II Episcopus Baiocensis.
 III Comes de Mauritania.
 IV Comes Alanus.
 V Comes Eustachius.
 VI Comes Hugo.
 VII Robertus Malet.
 VIII Willielmus de Warena.
 IX Roger. Bigot.
 X Willielmus Episcopus Tedforden-
 sis.
 XI Osbertus Episcopus.
 XII Godricus Dapifer.
 XIII Hermer. de Ferrar.
 XIV Abbas de Sancto Eadmundo.

XV Abbas de Eli.
 XVI Abbas Sancti Benedicti de Ra-
 mſio.
 XVII Abbas de Hulmo.
 XVIII Sanctus Stephanus de Ca-
 damo.
 XIX Willielmus de Schoies.
 XX Rad. de Belio Fago.
 XXI Rainaldus filius Ivonis.
 XXII Rad. de Toenio.
 XXIII Hugo de Montfort.
 XXIV Endo Dapifer.
 XXV Walter. Giffart.
 XXVI Roger. Piſtaviens.
 XXVII Ivo Talleboſc.
 XXVIII Radus de Limeſeio.
 XXIX Endo filius Spirwic.
 XXX Drogo de Beuraria.
 XXXI Rad. Bainardus.
 XXXII Ranulfus Piperellus.
 XXXIII Robertus Grenon.
 XXXIV Petrus Valoniensis.
 XXXV Robertus filius Corbutionis.
 XXXVI Ranulphus frater Ilgeri.
 XXXVII Tibellus Britto.
 XXXVIII Robertus de Verli.
 XXXIX Humfridus filius Alberici.
 XL Humfridus de Bohun.
 XLI Radus de Felgeres.
 XLII Gislebertus filius Richeri.
 XLIII Roger. de Ramis.
 XLIV Inichellus Preſbyter.
 XLV Colebertus Preſbyter.
 XLVI Edmundus filius Pagani.
 XLVII Isaac.
 XLVIII Tannus.
 XLIX Johannes Nepos Walerami.
 L Roger. filius Renardi.
 LI Bernerus Arbalistar.
 LII Gislebertus Arbalistar.
 LIII Radulfus Arbalistar.
 LIV Robertus Arbalistar.
 LV Radus Bellus artifex.
 LVI Hugo.
 LVII Radus filius Hugon.
 LVIII Ulchetellus.
 LIX Aluredus.
 LX Aldit.
 LXI Godvinus Haldenus.
 LXII Starcolſus.
 LXIII Eldericus Ancipiter.
 LXIV De Liberis Hominibus Re-
 gis
 Ad nullam Firmam pertinent.

LXV De

LXV De Dominic. Hominibus Regis.
LXVI De Invasionibus.

Sudfulc.

- A I **W**illielmus Rex Anglor.
II **C**omes Maritonienſis.
III **C**omes Alanus.
IV **C**omes Hugo.
V **C**omes Eufiachius.
VI **R**obertus Malet.
VII **R**oger. Bigot.
VIII **R**oger. Piſtavienſis.
B IX **W**illielmus de Scoies.
X **H**ermerus de Ferreris.
XI **R**anulfus de Bello Fago.
XII **F**rodo frater Abbatis.
XIII **G**odricus Dapiſer.
XIV **A**bbas Sancti Etmundi.
XV **A**rchiepiscopus.
XVI **E**piscopus Baioceniſis.
XVII **A**bbas de Remefeia.
C XVIII **E**piscopus Tedſfordeniſis.
XIX **F**endum ejusdem Episcopi.
XX **E**piscopus Rovenſis.
XXI **A**bbas de Eli.
XXII **E**piscopus Ebroiceniſis.
XXIII **A**bbas Debernai.
XXIV **A**bbas de Ceterith.
D XXV **R**icardus filius Comitſ Gisleberti.
XXVI **W**illielmus de Warrenna.
XXVII **S**uenus de Eſſeſſa.
XXVIII **E**udo Dapiſer.
XXIX **R**oger. de Otburvil.
XXX **W**illielmus frater ejusdem.
XXXI **H**ugo de Monteforte.
XXXII **G**osfridus de Magna villa.
E XXXIII **R**adus Baignardus.
XXXIV **R**anulfus Piperellus.
XXXV **A**lbericus de Ver.
XXXVI **R**obertus Greno.
XXXVII **P**etrus Valoniens.
XXXVIII **R**oger. de Ramis.
XXXIX **R**anulfus frater Ilger.
F XL **R**obertus filius Corbutionis.
XLI **G**altrus Diaconus.
XLII **T**ibellus de Heriow.
XLIII **R**adus de Limeſeio.
XLIV **R**obertus de Todeneio.
XLV **G**alter Giffart.
XLVI **C**omitſſa de Albamarla.
XLVII **W**. de Archis.
XLVIII **D**rogo de Beureria.

- XLIX **H**ugo de Grentemeſnil.
L **R**adus de Felgeris.
LI **G**alt. de Sancto Walerico.
LII **H**umfridus Camerar.
LIII **E**udo filius Spervic.
LIV **W**illielmus de Watevill.
LV **J**ohannes filius Walerami.
LVI **H**umfridus filius Alberici.
LVII **H**ubertus de Monte Canefio.
LVIII **G**odvinus.
LIX **S**aiſſelinus.
LX **R**obertus de Verli.
LXI **R**adus Pinel.
LXII **I**ſaac.
LXIII **N**ormannus.
LXIV **I**nichellus Presbyter.
LXV **G**irolodus Mareſcall.
LXVI **R**obertus Blundus.
LXVII **H**ervenus Bituricens.
LXVIII **G**iſelbertus Baſiſtar.
LXIX **R**adulfus Baſiſtarius.
LXX **R**analdus Britto.
LXXI **R**obertus de Stratford.
LXXII **S**tandardus.
LXXIII **U**lmarus.
LXXIV **V**alvaſores.
LXXV **L**iberi Homines.
LXXVI **I**nvaſiones ſuper Regem.

Chenth.

- I **R**ex Willielmus.
II **A**rchiepiscopus Cantuar.
III **M**onachi & Homines ejus.
IV **E**piscopus Roſceſtrenſis.
V **E**piscopus Baioceniſis.
VI **A**bbatia de Bataigle.
VII **A**bbatia Sancti Auguſtini.
VIII **A**bbatia de Gand.
IX **H**ugo de Montfort.
X **C**omes Eufiachius.
XI **R**icardus de Tunbridge.
XII **H**aimo Vicecomes.
XIII **A**lbertus Capellanus.

Under Num. III. *Tit.* Monachi ejus were comprehended the Lands of the Holy Trinity, and St. Martin in Canterbury, and perhaps of St. Martin in Dover. vid. *Monast. Angl.* vol. 1. f. 26. col. 1. n. 60. & col. 2.

Sudſexe.

- I **R**ex Willielmus.
II **A**rchiepiscopus Cantuar.
III **E**piscopus Ciceſtrenſis.
IV **A**bbas

- IV Abbas Westmonaster.
- V Abbas Fiscannensis.
- VI Osbernus Episcopus Excester.
- VII Abbatia Wintoniensis.
- VIII Abbatia de la Bataigle.
- IX Comes de Ow.
- X Comes Moritonie.
- XI Comes Roger.
- XII Willielmus de Warenn.
- XIII Willielmus de Braiosa.
- XIV Odo de Wincestre.
- XV Eldred.

Sudrie.

- I **R** Ex Willielmus.
- II **R** Archiepiscopus Cantuar.
- III Episcopus Wintoniensis.
- IV Episcopus Osbornus.
- V Episcopus Baiocensis.
- VI Abbas de Westmonast.
- VII Abbas de Wintonia.
- VIII Abbas de Certesy.
- IX Abbas Sancti Wandregesili.
- X Abbas de Cruce Sancti Leutfredi.
- XI Abbas de la Bataigle.
- XII Abbatissa de Berchinges.
- XIII Canonici Sancti Pauli London.
- XIV Ecclesia de Lantheige.
- XV Comes Eustachius.
- XVI Comitissa Bononiensis.
- XVII Comes Moritoniensis.
- XVIII Comes Rogerus.
- XIX Ricardus de Tonebrige.
- XX Willielmus de Braiose.
- XXI Willielmus filius Ansculfi.
- XXII Walterius filius Other.
- XXIII Walterius de Douai.
- XXIV Gislebertus filius Richerii.
- XXV Goisfridus de Manneville.
- XXVI Goisfridus Orlateile.
- XXVII Edvardus Sarisberie.
- XXVIII Robertus Malet.
- XXIX Milo Crispin.
- XXX Haimo Vicecomes.
- XXXI Hunfridus Camrarius.
- XXXII Radulfus de Felgeres.
- XXXIII Rainaldus filius Erchebaldi.
- XXXIV Albertus Clericus.
- XXXV Odardus Balistarius.
- XXXVI Oswaldus Teodericus & alii Servientes Regis.

Hantescire.

- I **R** Ex Willielmus.
- II **R** Episcopus Wintoniensis.
- III Et Monachi ejus.
- IV Thomas Archiepiscopus.
- V Osbernus Episcopus de Excestre.
- VI Abbas Wintoniensis.
- VII Abbas Gloucestr.
- VIII Abbas Westmonast.
- IX Abbas de Certesy.
- X Abbas Gemmeticensis.
- XI Abbas Glastingeber.
- XII Abbas Middletunensis.
- XIII Abbas de Grestam.
- XIV Abbatissa de Wincestre.
- XV Abbatissa de Romefyg.
- XVI Abbatissa de Warunelle.
- XVII Canonici de Tuinham.
- XVIII Comes Alanus.
- XIX Comes Moritoniensis.
- XX Comes Roger.
- XXI Comes Hugo.
- XXII Hugo de Porth de Rege.
- XXIII Idem de Episcopo Baiocensi.
- XXIV Hubertus de Porth.
- XXV Willielmus de Perci.
- XXVI Ernulfus de Hesding.
- XXVII Edvard. de Saresber.
- XXVIII Robertus filius Giroldi.
- XXIX Radulfus de Mortimer.
- XXX Eudo filius Hubert.
- XXXI Willielmus Bertram.
- XXXII Willielmus de Ow.
- XXXIII Willielmus de Braiosa.
- XXXIV Willielmus de Warrenna.
- XXXV Willielmus de Maldwith.
- XXXVI Aluredus Merlebergh.
- XXXVII Durandus de Gloucestr.
- XXXVIII Turstinus filius Rolf.
- XXXIX Bernardus Pencevolt.
- XL Turstinus Camerarius.
- XLI Ricardus Sturmie.
- XLII Ricard. Puingiand.
- XLIII Giselbertus de Breteville.
- XLIV Hugo filius Baldri.
- XLV Waleran. Venator.
- XLVI Walter. filius Other.
- XLVII Walter. filius Roger. de Pistes.
- XLVIII Willielmus filius Manne.
- XLIX Willielmus Alis.

L Willielmus

- L *Willielmus filius Baderon.*
 LI *Willielmus filius Stur.*
 LII *Willielmus Belet.*
 LIII *Willielmus Arcuarius.*
 LIV *Herbertus filius Remigii.*
 LV *Herbertus Camerar.*
 A LVI *Henr. Thesaurar.*
 LVII *Humfridus Camerarius.*
 LVIII *Herbrand de Pont. Audemer.*
 LIX *Rainaldus filius Croch.*
 LX *Croch Venator.*
 LXI *Gozelin. de Cormelijo.*
 LXII *Goisfridus Marescal.*
 B LXIII *Nigellus Medicus.*
 LXIV *Aluredus Presbyter.*
 LXV *Durandus Tonsorator.*
 LXVI *Ranulphus Flamme.*
 LXVII *Goisfridus Camerar. filius*
Regis.
 LXVIII *Hugo Alabarbe.*
 LXIX *Alii plures servientes Regis.*
 C LXX *Odo de Wincestre & Alii*
multi Taini Regis.

In Insula de With.

- I *R* *Ex Willielmus.*
 II *R* *Episcopus Wintoniensis.*
 III *Ecclesia Sancti Nicholai.*
 D IV *Abbatia de Lire.*
 V *Abbatia Wiltunienfis.*
 VI *Willielmus filius Stur.*
 VII *Willielmus filius Azor.*
 VIII *Gozelinus filius Azor.*
 IX *Godricus Presbyter & alii plu-*
res.

Item in eodem Comitatu cir-
ca Novam Forestam.

- I *R* *Ex Willielmus.*
 II *R* *Episcopus Wintoniensis.*
 III *Comes Roger.*
 F IV *Willielmus de Ow.*
 V *Radulfus de Mortemer.*
 VI *Hugo de Porth.*
 VII *Edvardus de Saresber.*
 VIII *Ranulfus Flammar.*
 IX *Hugo & Odo & Alii plures.*

Berrochescire.

- I *R* *Ex Willielmus.*
 II *R* *Episcopus Wintoniensis.*
 III *Episcopus Sarisberienfis.*
 IV *Episcopus Dunelmensis.*
 V *Episcopus Excestrenfis.*
 VI *Episcopus Constantiensis.*
 VII *Abbatia Abandoniensis.*
 VIII *Abbatia Glastengeber.*
 IX *Abbatia Westmonast.*
 X *Abbatia Wintoniensis.*
 XI *Abbatia Certesy.*
 XII *Abbatia Sancti Albani.*
 XIII *Abbatia Sancti Petri Sar.*
Dive.
 XIV *Abbatia de la Bataigle.*
 XV *Abbatissa de Wincestre.*
 XVI *Abbatissa de Ambresberie.*
 XVII *Comes Ebroicensis.*
 XVIII *Comes Hugo.*
 XIX *Comes Mortitonens.*
 XX *Walter. Giffard.*
 XXI *Henr. de Ferier.*
 XXII *Willielmus filius Ansculfi.*
 XXIII *Willielmus de Ow.*
 XXIV *Willielmus Peverel.*
 XXV *Willielmus Braios.*
 XXVI *Willielmus Loveth.*
 XXVII *Willielmus filius Corbution.*
 XXVIII *Willielmus filius Richardi.*
 XXIX *Willielmus de Calgi.*
 XXX *Walter. filius Pontz.*
 XXXI *Walter. filius Other.*
 XXXII *Endo filius Huberti.*
 XXXIII *Milo Crispin.*
 XXXIV *Ghilo frater Ansculfi.*
 XXXV *Hascoit Musard.*
 XXXVI *Giselbertus de Breteville.*
 XXXVII *Gilbertus de Gand.*
 XXXVIII *Goisfridus de Manneville.*
 XXXIX *Osbertus Giffart.*
 XL *Robertus filius Girold.*
 XLI *Robertus de Olgi.*
 XLII *Robertus de Stadford.*
 XLIII *Ricardus Puingiand.*
 XLIV *Roger. de Lueri.*
 XLV *Roger. de Laci.*
 XLVI *Radulfus de Mortemer.*
 XLVII *Radulfus de Toden.*
 XLVIII *Radulfus filius Comit.*
 XLIX *Ra-*

XLIX Radulfus filius Scifride.
 L Ernulfus de Hesdinge.
 LI Hugo filius Baldrici.
 LII Hugo de Porth.
 LIII Hunfridus Camerar.
 LIV Hunfridus vil. de Lero.
 LV Turstinus filius Rolfi.
 LVI Albertus.
 LVII Ainulfus Vicecomes.
 LVIII Hugolinus Stirman.
 LIX Mathæus de Moritania.
 LX Bernardus Accipitrar.
 LXI Reinbaldus Presbyter.
 LXII Grimbaldus.
 LXIII Teodricus Aurifaber Odo &
 alii plures Taini.

Wiltescire.

I **R** Ex Willielmus.
 II **R** Episcopus Wintoniensis.
 III Episcopus Sarisberiensis.
 IV Episcopus Baiocensis.
 V Episcopus Constantiensis.
 VI Episcopus Lisiacensis.
 VII Abbatia Glastringberiensis.
 VIII Abbas Malmsberiensis.
 IX Abbatia Westmonasterii.
 X Abbatia Wintoniensis.
 XI Abbatia Creneburnensis.
 XII Abbatissa Sceftesberiensis.
 XIII Abbatissa Wiltuniensis.
 XIV Abbatissa Wintoniensis.
 XV Abbatissa Romesensis.
 XVI Abbatissa Ambresberiensis.
 XVII Ecclesia Beccensis.
 XVIII Giraldus Presbyter de Wiltune.
 XIX Canonici Lisiansenses.
 XX Comes Moritonensis.
 XXI Comes Roger.
 XXII Comes Hugo.
 XXIII Comes Albericus.
 XXIV Edwardus de Sarisber.
 XXV Ernulfus de Hesding.
 XXVI Aluredus de Merlebergh.
 XXVII Hunfridus de Insula.
 XXVIII Milo Crispin.
 XXIX Gislebertus de Bretteville.
 XXX Durandus de Gloucester.
 XXXI Walter. Gifart.
 XXXII Willielmus de Ow.
 XXXIII Willielmus de Braiose.

XXXIV Willielmus de Mojun.
 XXXV Willielmus de Faleise.
 XXXVI Walsinius de Dowai.
 XXXVII Waleranus Venator.
 XXXVIII Willielmus filius Widonis.
 XXXIX Henricus de Ferier.
 XL Ricardus filius Com. Gisleberti.
 XLI Radulfus de Mortemer.
 XLII Robertus filius Girold.
 XLIII Robertus filius Rolf.
 XLIV Roger. de Curcelle.
 XLV Roger. de Barchelai.
 XLVI Bernald Pancevolt.
 XLVII Berenger. Gifart.
 XLVIII Osbernus Gifart.
 XLIX Drogo filius Ponz.
 L Hugo Lasne.
 LI Hugo filius Baldrici.
 LII Hunfridus Camerar.
 LIII Gunfridus Maldwith.
 LIV Aluredus de Hispania.
 LV Ainulfus Vicecomes.
 LVI Nigellus Medicus.
 LVII Osbernus Presbyter.
 LVIII Ricardus Puingiand.
 LIX Robertus Marescal.
 LX Robertus Flavus.
 LXI Ricardus Sturma.
 LXII Rainaldus Canus.
 LXIII Maci de Moritania.
 LXIV Gazelinus Rivere.
 LXV Godescal.
 LXVI Herman & alii Servientes Regis.
 LXVII Odo & alii Taini Regis.
 LXVIII Hervens & alii Ministri Regis.

Dorsete.

I **R** Ex Willielmus.
 II **R** Episcopus Sarisberiensis.
 III Monachi Scireburne
 IV Episcopus Baiocensis.
 V Episcopus Constantiensis.
 VI Episcopus Lisiacensis.
 VII Episcopus Lundoniensis.
 VIII Abbatia Glastringber.
 IX Abbatia Wintoniensis.
 X Abbatia Creneburnensis.
 XI Abbatia de Cernel.
 XII Abbatia de Middleton.
 XIII Abbatia de Abedesberie.

XIV Ab.

- XIV Abbatia de Hortune.
 XV Abbatia de Adelingi.
 XVI Abbatia de Tavestock.
 XVII Abbatia de Cadomis.
 XVIII Abbatia Sancti Wandregisli.
 XIX Abbatissa de Scestesberie.
 XX Abbatissa de Wiltune.
 XXI Abbatissa de Cadom.
 XXII Abbatissa de Monaster. Villar.
 XXIII Canonici Constantiens.
 XXIV Reinbaldus Presbyter & alii Clerici.
 XXV Comes Alanus.
 XXVI Comes Moritonensis.
 XXVII Comes Hugo.
 XXVIII Roger. de Belmont.
 XXIX Roger. de Curcelle.
 XXX Robertus filius Girolid.
 XXXI Eduardus de Sarisber.
 XXXII Ernulfus de Hesding.
 XXXIII Turstinus filius Rolf.
 XXXIV Willielmus de Ow.
 XXXV Willielmus de Faleise.
 XXXVI Willielmus de Mojun.
 XXXVII Willielmus de Braiose.
 XXXVIII Willielmus de Scohies.
 XXXIX Walseinus de Douvai.
 XL Waleran. Venator.
 XLI Walter. de Clavile.
 XLII Baldwinus de Excestre.
 XLIII Berenger Gifart.
 XLIV Osbernus Gifart.
 XLV Maci de Moritanie.
 XLVI Roger. Arundell.
 XLVII Serlo de Burci.
 XLVIII Ainulfus Vicecomes.
 XLIX Hunfridus Camerar.
 L Hugo de Porth.
 LI Hugo de Sancto Quintino.
 LII Hugo de Boscherberti.
 LIII Hugo de Luri & alii Franc.
 LIV Uxor Hugonis.
 LV Ifeldis.
 LVI Gudmund. & alii Taini.
 LVII Willielmus Belet & alii Servientes Regis.
 LVIII Comitissa Bolonienfis.

Summerfete.

- I **R** Ex Willielmus.
 II **R** Episcopus Wintoniensis.
 III Episcopus Sarisberiensis.

- IV Episcopus Baiocensis.
 V Episcopus Constantiensis.
 VI Episcopus Wellensis.
 VII Ecclesia de Bada.
 VIII Ecclesia Glastingberiensis.
 IX Ecclesia Miceleniensis.
 X Ecclesia Adelingiensis alias Glastoniensis.
 XI Ecclesia Romana Sancti Petri.
 XII Ecclesia de Cadom.
 XIII Ecclesia de Monteburg.
 XIV Ecclesia de Scestesberie.
 XV Episcopus Mauricius.
 XVI Clerici tenentes de Rege.
 XVII Comes Eustachius.
 XVIII Comes Hugo.
 XIX Comes Moritonensis.
 XX Baldwinus de Excestre.
 XXI Roger. de Curcelle.
 XXII Roger. Arundell.
 XXIII Walter. Gifart.
 XXIV Walter. vel Wascinus de Douvai.
 XXV Willielmus de Mojun.
 XXVI Willielmus de Ow.
 XXVII Willielmus de Faleise.
 XXVIII Willielmus filius Widonis.
 XXIX Radulfus de Mortimer.
 XXX Ranulphus de Pomerei.
 XXXI Radulfus Pagenell.
 XXXII Radus de Limefe.
 XXXIII Robertus filius Girolidi.
 XXXIV Aluredus de Merleberge.
 XXXV Aluredus de Hispania.
 XXXVI Turstinus filius Rolf.
 XXXVII serla de Burei.
 XXXVIII Odo filius Gamelin.
 XXXIX Osberne Gifart.
 XL Eduardus de Sarisber.
 XLI Ernulfus de Hesding.
 XLII Gilbertus filius Turolid.
 XLIII Godebold.
 XLIV Mattheus de Moritania.
 XLV Hunfridus Camerar.
 XLVI Robertus de Odburnile & alii Servientes Regis.
 XLVII Taini Regis.

Devenescire.

- I **R** Ex Willielmus.
 II **R** Episcopus de Excestre.
 III Episcopus Constantiensis.
 IV Ec-

- IV Ecclesia Glaſtingberie.
 V Ecclesia de Taueſtoch.
 VI Ecclesia de Bucfeſth.
 VII Ecclesia de Hortune.
 VIII Ecclesia de Creneburne.
 IX Ecclesia de la Bataigle.
 X Ecclesia de Rotomago Sancti Mart.
 XI Ecclesia de Monte Sancti Michael.
 XII Ecclesia Sancti Stephani de Cadom.
 XIII Ecclesia Sanctæ Trinit. de Cadom.
 XIV Comes Hugo.
 XV Comes Moritonienſis.
 XVI Baldwinus Vicecomes.
 XVII Judhell de Todenais.
 XVIII Willielmus de Moimi.
 XIX Willielmus Chieure.
 XX Willielmus Faleiſe.
 XXI Willielmus de Poilgi.
 XXII Willielmus de Ow.
 XXIII Walter. de Donnai.
 XXIV. Walter. de Clavile.
 XXV Walterius.
 XXVI Gozelinus.
 XXVII Ricardus filius Giſleberti Comit.
 XXVIII Roger. de Buſſi.
 XXIX Robertus de Albamarla.
 XXX Robertus Baſtard.
 XXXI Ricardus filius Turolf.
 XXXII Radulfus de Limeſi.
 XXXIII Radulfus de Pagenell.
 XXXIV Radulfus de Felgeres
 XXXV Radulfus de Pomerei.
 XXXVI Ruald Adobed.
 XXXVII Tedbaldus filius Bernerii.
 XXXVIII Truſtinus filius Rolf.
 XXXIX Aluredus de Hispania.
 XL Aluredus Brito.
 XLI Anſgerus.
 XLII Ainulfus.
 XLIII Odo filius Gamelin.
 XLIV Osbernus de Salceid.
 XLV Uxor Hervei de Helion.
 XLVI Girolodus Capellanus.
 XLVII Girardus.
 XLVIII Godobaldus.
 XLIX Nicholaus.
 L Fulcherus.
 LI Haimericus.
 LII Willielmus & alii Seruientes Regis.

LIII Colvin & alii Taini Regis.

Cornualgie.

- I **R** Ex Willielmus.
 II **R** Episcopus de Execeſtre.
 III Ecclesia de Taueſtoch.
 IV Ecclesia aliquor. Sanctorum.
 V Comes Moritonienſis.
 VI Judahell de Todenais.
 VII Gozelinus.

Midleſexe.

- I **R** Ex Willielmus.
 II **R** Archiepiſcopus Cantuar.
 III Episcopus London. & Canonici ejus.
 IV Abbatia de Weſtmonaſt.
 V Abbatia Sanctæ Trinitat. Rotom.
 VI Abbatia de Berchinges.
 VII Comes Rogerius.
 VIII Comes Moritonienſis.
 IX Goisfridus de Manneville.
 X Ernulfus de Heſding.
 XI Walterius filius Other.
 XII Walterius de Sancto Walerico.
 XIII Ricardus filius Gilberti Com.
 XIV Robertus Gernon.
 XV Robertus Faſton.
 XVI Robertus filius Roſelini.
 XVII Robertus Blundus.
 XVIII Roger. de Ramis.
 XIX Willielmus filius Anſcu'ſi.
 XX Edvardus de Sarisberie.
 XXI Albericus de Ver.
 XXII Ranulfus frater Ilgeri.
 XXIII Herman.
 XXIV Juditha Comitiffa.
 XXV Elemeſſinarij Regis.

Hertfordſcire.

- I **R** Ex Willielmus.
 II **R** Archiepiſcopus Cantuar.
 III Episcopus Wintonienſis.
 IV Episcopus Londonienſis.
 V Episcopus Baioceniſis.
 VI Episcopus Laſtacenſis.
 VII Episcopus Ceſtrenſis.
 VIII Abbas de Ely.

IX Abbas

IX Abbas de Westmonast.
 X Abbas de Sancto Albano.
 XI Abbatissa de Cetriz.
 XII Canonici de Lundonia.
 XIII Canonici de Waltham.
 XIV Comes Moritonienfis.
 XV Comes Alanus.
 XVI Comes Eustachius.
 XVII Comes Roger.
 XVIII Robertus de Olgi.
 XIX Robertus de Gernon.
 XX Robertus de Toden.
 XXI Radulfus de Toden.
 XXII Radulfus de Limefeio.
 XXIII Radus Bainard.
 XXIV Ranulfus frater Ilger.
 XXV Hugo de Grentemesnil.
 XXVI Hugo de Belcampo.
 XXVII Willielmus de Ow.
 XXVIII Willielmus de Otburvil.
 XXIX Walter. Flandrensis.
 XXX Endo Dapifer.
 XXXI Edwardus Saresberienf.
 XXXII Goisfridus de Manneville.
 XXXIII Goisfridus de Bech.
 XXXIV Goisbertus de Belvaco.
 XXXV Petrus Valonienf.
 XXXVI Hardvinus de Escalers.
 XXXVII Edgar.
 XXXVIII Maigno Brito.
 XXXIX Gilbertus filius Solomonis.
 XL Sigar de Cioches.
 XLI Darman, & alii Regis Thaini.
 XLII Rotharias Uxor Ricardi filius
 Gilberti Comitiss.
 XLIII Abeliz. Uxor Hugonis.
 XLIV Filia Randulfi Talgebosch.

Bochinghamscire.

I **R** Ex Willielmus.
 II **R** Archiepiscopus Cantuar.
 III Episcopus Wintoniens.
 IV Episcopus Lincoliensis.
 V Episcopus Baiocensis.
 VI Episcopus Constantiensis.
 VII Episcopus Lisiacensis.
 VIII Abbas Westmonast.
 IX Abbas de Sancto Albano.
 X Abbatissa de Berching.
 XI Canonici de Oxeneford.
 XII Rainbaldus Presbyter.

XIII Comes Moritonienfis.
 XIV Comes Hugo de Cestre.
 XV Walterius Gifart.
 XVI Willielmus de Warennia.
 XVII Willielmus Peverell.
 XVIII Willielmus filius Ansculfi.
 XIX Ricardus de Toden.
 XX Robertus de Oilgi.
 XXI Robertus Gernon.
 XXII Goisfridus de Manneville.
 XXIII Gilbertus de Gand.
 XXIV Milo Crispin.
 XXV Edwardus de Sarisberie.
 XXVI Hugo de Bellocamp.
 XXVII Hugo de Bolebech.
 XXVIII Henricus de Ferrariis.
 XXIX Walterius de Vernon.
 XXX Walterius filius Other.
 XXXI Walterius Flandrensis.
 XXXII Willielmus de Felgeres.
 XXXIII Willielmus Camerarius.
 XXXIV Willielmus filius Constantini.
 XXXV Willielmus filius Magni.
 XXXVI Turstinus filius Rolf.
 XXXVII Turstinus Mantell.
 XXXVIII Radus de Felgeres.
 XXXIX Bertramus de Verduno.
 XL Nigellus de Albinio.
 XLI Nigellus de Bereville.
 XLII Roger de Iveri.
 XLIII Ricardus de Ingania.
 XLIV Maimo Brito.
 XLV Gozelinus Brito.
 XLVI Urso de Berseres.
 XLVII Venemarus.
 XLVIII Martinus.
 XLIX Heruens Legatus.
 L Hascoit Musart.
 LI Gunfridus de Cioches.
 LII Gilo frater Ansculfi.
 LIII Mathildis Regina.
 LIV Juditha Comitissa.
 LV Azelina Uxor Tolgebosch.
 LVI Taini Regis & Elemosinarii.

Oxenefordscire.

I **R** Ex Willielmus.
 II **R** Archiepiscopus Cantuariensis.
 III Episcopus Wintoniensis.
 IV Epif-

IV Episcopus Saresbriensis.
 V Episcopus Execestrensis.
 VI Episcopus Lincolniensis.
 VII Episcopus Baiocensis.
 VIII Episcopus Lisacensis.
 IX Abbatia Abindoniensis.
 X Abbatia de la Bataigle.
 XI Abbatia de Wincelcumbe.
 XII Abbatia de Pratellis.
 XIII Ecclesia Sancti Dionisii Parisii
 XIV Canonici de Oxeneford & alii
 Clerici.
 XV Comes Hugo.
 XVI Comes Moritonienſis.
 XVII Comes Ebroicensis.
 XVIII Comes Albericus.
 XIX Comes Eustachius.
 XX Walter. Gifart.
 XXI Willielmus filius Anſculfi.
 XXII Willielmus de Warennā.
 XXIII Willielmus Peverell.
 XXIV Henricus de Ferier.
 XXV Hugo de Bolebech.
 XXVI Hugo de Luri vel Luci.
 XXVII Robertus de Stadford.
 XXVIII Robertus de Oilgi.
 XXIX Roger. de Luri vel Leuri.
 XXX Radus de Mortemer.
 XXXI Ranulfus Peurell.
 XXXII Ricardus de Curci.
 XXXIII Ricardus Puingniand.
 XXXIV Berenger de Todenī.
 XXV Milo Crispin.
 XXXVI Wido de Reinbodcurth.
 XXXVII Ghilo Frater Anſculfi.
 XXXVIII Gilbertus de Gand.
 XXXIX Goisfridus de Maneville.
 XL Ernulfus de Hesding.
 XLI Edwardus de Saresberie.
 XLII Swain Vicecomes.
 XLIII Aluredus Nepos Wigot.
 XLIV Wido de Oilgi.
 XLV Walterius Pontz.
 XLVI Willielmus Leuric.
 XLVII Willielmus filius Manne or
 Magni.
 XLVIII Ilbodus frater Ernulfi de
 Hesding.
 XLIX Reinbaldus.
 L Robertus filius Murdrac.
 LI Osbernus Gifart.
 LII Benzelinus.
 LIII Juditha Comitissa.
 LIV Christina.

LV Uxor Roger. de Luri.
 LVI Hascoit Musard.
 LVII Turchill.
 LVIII Richardus Ingan. & alii Mi-
 nistri Regis.
 LIX Willielmus Comes de Warennā.

Glowceſtreſcire.

I **R** Ex Willielmus.
 II Archiepiſcopus Eboracensis.
 III Episcopus de Wireceſtre.
 IV Episcopus de Hereforde.
 V Episcopus de Execeſtre.
 VI Episcopus de Sancto Laudo.
 VII Ecclesia de Bade.
 VIII Abbatia de Glaſtingberie.
 IX Abbatia de Malmesburie.
 X Abbatia de Glowceſtre.
 XI Abbatia de Wincelcumbe.
 XII Abbatia de Eweſham.
 XIII Abbatia de Abendone.
 XIV Abbatia de Perfore.
 XV Abbatia de Coventren.
 XVI Abbatia de Cormelies.
 XVII Abbatia de Lire.
 XVIII Abbatia de Eglesham.
 XIX Abbatia de Weſtmonaſt.
 XX Ecclesia Sancti Dionisii Pa-
 risii.
 XXI Ecclesia de Lanheig.
 XXII Ecclesia Sancti Ebrulfi.
 XXIII Ecclesia Sancta Trinitat. Ca-
 domenſ.
 XXIV Ecclesia de Troarz.
 XXV Ecclesia de Cireceſtre.
 XXVI Renbaldus Presbyter.
 XXVII Comes Rogerius.
 XXVIII Comes Hugo.
 XXIX Comes Moritonienſis.
 XXX Gilbertus Mannoth Episcopus
 Liſaſenſis.
 XXXI Willielmus de Ow.
 XXXII Willielmus filius Baderon.
 XXXIII Willielmus Camerarius.
 XXXIV Willielmus Goizenboded.
 XXXV Willielmus filius Widon.
 XXXVI Willielmus Froiſſelew.
 XXXVII Willielmus filius Norman.
 XXXVIII Willielmus Luric.
 XXXIX Roger. de Laci.
 XL Roger.

A

B

C

D

E

F

- XL Roger. de Belmont.
 XLI Roger. de Luri.
 XLII Roger. de Berchelai.
 XLIII Radulfus frater ejus.
 XLIV Radulfus Pagenell.
 XLV Radulfus de Toden.
 XLVI Robertus de Toden.
 A XLVII Robertus Dispensator.
 XLVIII Robertus de Oilgi.
 XLIX Ricardus Legatus.
 L Osbernus Gifart.
 LI Goisfridus Orleteile.
 LII Gilbertus filius Turol.
 LIII Durandus Vicecomes.
 LIV Drogo filius Pontz.
 B LV Walterius filius Pontz.
 LVI Walterius filius Roger.
 LVII Walterius Diaconus.
 LVIII Walterius Balistarius.
 LIX Henricus de Ferriers.
 LX Ernulphus de Hesding.
 LXI Heraldus filius * Radi Comitis.
 LXII Hugo de Gretemaisnel.
 C LXIII Hugo Lasne.
 LXIV Milo Crispin.
 LXV Urso de Abbatot.
 LXVI Hascoit Musard.
 LXVII Turstinus filius Rolf.
 LXVIII Ansfridus de Cormelies.
 LXIX Hunfridus Camerarius.
 LXX Hunfridus de Medehall.
 D LXXI Hunfridus Coquus.
 LXXII Sigar de Cioc. s.
 LXXIII Maci de Moritanie.
 LXXIV Gozelinus Britto.
 LXXV Roger. filius Radulfi.
 LXXVI Uxor Geri.
 LXXVII Baldwinus.
 LXXVIII Elsi & alii Taini Regis.

* This Ralph was Earl of Hereford before the Conquest; he was Son to Walter de Mant, a French or Norman, who married Goda Sister to Edward the Confessor. *Dug. Bar. Tom. i. f. 21. col. 2.* he is to be found in Berk. Wernwic, and Worcester shires. See *Flor. Wigorn. f. 629. A. D. 1055*

Wirecestrescire.

- I R Ex Willielmus.
 II R Ecclesia de Wirecestre.
 III Episcopus de Hereford.

- IV Ecclesia Sancti Dionisi.
 V Ecclesia de Coventren.
 VI Ecclesia de Cormelies.
 VII Ecclesia de Gloucestre.
 VIII Ecclesia de Westmonast.
 IX Ecclesia de Perfore.
 X Ecclesia de Evesham.
 XI Episcopus Baioc. nsis.
 XII Ecclesia Sancti Guthlaci.
 XIII Clerici de Wrehantone.
 XIV Comes Roger.
 XV Radulfus de Toden.
 XVI Radulfus de Mortemer.
 XVII Robertus de Stadford.
 XVIII Roger. de Laci.
 XIX Osbernus filius Ricardi.
 XX Gilbertus filius Turol.
 XXI Drogo filius Pontz.
 XXII Heraldus filius Radulfi.
 XXIII Willielmus filius Ansc. is.
 XXIV Willielmus filius Corbution.
 XXV Willielmus Goozenboded.
 XXVI Urso de Abetoth.
 XXVII Hugo Lasne.
 XXVIII Eldeve.

Herefordscire.

- I W Willielmus Rex.
 II Episcopus de Hereford.
 III Ecclesia de Cormelies.
 IV Ecclesia de Lire.
 V Ecclesia de Gloucestre.
 VI Ecclesia Sancti Guthlaci.
 VII Nigellus Medicus.
 VIII Radulfus de Toden.
 IX Radus de Mortemer.
 X Roger. de Laci.
 XI Roger. de Mucelgros.
 XII Robertus Gernon.
 XIII Henricus de Felgeres.
 XIV Willielmus de Scohes.
 XV Willielmus filius Baderon.
 XVI Willielmus filius Norman.
 XVII Turstinus filius Rolf.
 XVIII Albertus Lothariensis.
 XIX Aluredus de Merleberge.
 XX Aluredus de Hispania.
 XXI Ansfridus de Cormelies.
 XXII Durandus de Gloucestre.
 XXIII Drogo filius Pontz.
 XXIV Osbernus filius Ricardi.

Herefordscire & in Arsenfield in Walis.

- XXV **G**ilbertus filius Tuold.
 XXVI **G**ilbertus filius Tuold.
 XXVII Herman de Druenes.
 XXVIII Hunfridus de Buiville.
 XXIX Hugo Lafne.
 XXX Orso de Abetoth.
 XXXI Griffin.
 XXXII Raynerius.
 XXXIII Carbon.
 XXXIV Uxor Radulfi Capellani.
 XXXV Stefanus.
 XXXVI Madoch, Edric, Elmer.

These were Taini or Servientes Regis.

Grentebr. scire.

- I **R**ex Willielmus.
 II **R**ex Episcopus Wintoniensis.
 III Episcopus Lincoliensis.
 IV Episcopus Rosensis.
 V Abbas de Ely.
 VI Abbas de Sancto Edmundo.
 VII Abbas de Ramesy.
 VIII Abbas de Tornii.
 IX Abbas de Croyland.
 X Abbas Sancti Wandregisili.
 XI Abbatissa de Citeriz.
 XII Comes Moritonensis.
 XIII Comes Roger.
 XIV Comes Alanus.
 XV Comes Eustachius.
 XVI Canonici Baiocenses.
 XVII Walter. Gifart.
 XVIII Willielmus de Warrenna.
 XIX Ricardus filius Gilberti Comititis.
 XX Robertus de Toden.
 XXI Robertus Gernon.
 XXII Goisfridus de Manneville.
 XXIII Gilbertus de Gand.
 XXIV Gilbertus filius Tuoldi.
 XXV Eudo Dapifer.
 XXVI Hardvinus de Scalers.
 XXVII Hugo de Berneres.
 XXVIII Hugo de Port.
 XXIX Albericus de Ver.
 XXX Eustachius de Huntedune.
 XXXI Wido de Rembecurt.
 XXXII Petrus de Valonienfes.

- XXXIII Picot de Grantebridge.
 XXXIV Ranulfus frater Ilgeri.
 XXXV Johan. filius Walerani.
 XXXVI Willielmus filius Ansculfi.
 XXXVII Willielmus Cahanges.
 XXXVIII Robertus Faston.
 XXXIX David. de Argentoun.
 XL Duo Carpentarii Regis.
 XLI Juditha Comitissa.
 XLII Azelina Uxor Radulfi Tallgeboch.
 XLIII Uxor Boffelini de Dive.
 XLIV Erchenger Pistor.

Huntedunscire.

- I **R**ex Willielmus.
 II **R**ex Episcopus Lincoliensis.
 III Episcopus Constantiensis.
 IV Abbatia de Ely.
 V Abbatia de Creuland.
 VI Abbatia de Ramesy.
 VII Abbatia de Torny.
 VIII Abbatia de Burg.
 IX Comes Eustachius.
 X Comes de Ow.
 XI Comes Hugo.
 XII Walter. Gifart.
 XIII Willielmus de Warrenna.
 XIV Hugo de Bolebech.
 XV Eudo filius Huberti, de Rie;
 sive Dapifer.
 XVI Swaine de Esseffa.
 XVII Roger. de Luri.
 XVIII Ernulfus de Hesding.
 XIX Eustachius Vicecomes.
 XX Juditha Comitissa.
 XXI Gilbertus de Gand.
 XXII Albericus de Ver.
 XXIII Willielmus filius Ansculfi.
 XXIV Ranulfus frater Ilgeri.
 XXV Robertus Faston.
 XXVI Willielmus Ingania.
 XXVII Radulphus filius Osmund.
 XXVIII Rohais Uxor Ricardi.
 XXIX Taini Regis.

Bedefordscire.

- I **R**ex Willielmus.
 II **R**ex Episcopus Baiocensis.
 III Episcopus Constantiensis.
 IV Epif-

- IV Episcopus Lincoliensis.
V Episcopus Dunelmensis.
VI Abbas de Sancto Edmundo.
VII Abbas de Burg.
VIII Abbas de Ramesy.
IX Abbas de Westmon.
X Abbas de Torny.
- A XI Abbatissa de Berching.
XII Canonici de Lundon.
XIII Canonici de Bedeford.
XIV Erminius Presbyter.
XV Eustachius Comes.
XVI Walter. Gifart.
XVII Willielmus de Warenn.
XVIII Willielmus de Ow.
- B XIX Milo Crispin.
XX Ernulfus Hesding.
XXI Eudo Dapifer.
XXII Willielmus Peverel.
XXIII Hugo de Belcampo.
XXIV Nigellus de Albingi.
XXV Willielmus Spech.
XXVI Robertus de Toden.
- C XXVII Gilbertus de Gand.
XXVIII Robertus de Oilgi.
XXIX Ranulfus frater Ilger.
XXX Robertus Fasiton.
XXXI Aluredus de Lincolnie.
XXXII Walter. Flandrensis.
XXXIII Walter. frater Seiberii.
XXXIV Hugo Flandrensis.
- D XXXV Hugo Pincerna.
XXXVI Sigarus de Cioches.
XXXVII Gunfridus de Cioches.
XXXVIII Ricardus filius Gilberti
Comitis.
XXXIX Ricardus Puingiant.
XL Willielmus Camerarius.
XLI Willielmus Lovet.
- E XLII Willielmus.
XLIII Henricus filius Azor.
XLIV Osbernus filius Ricardi.
XLV Gilbertus filius Salom.
XLVI Osbernus filius Walter.
XLVII Osbernus Piscator.
XLVIII Turstinus Camerarius.
XLIX Albertus Lothariensis.
- F L David de Argentan.
LI Radulfus de Insula.
LII Gozelinus Brito.
LIII Judita Comitissa.
LIV Adeliza uxor Hug. de Gren-
temesnil.
LV Adelina femina Radi Tallgebofc.

- LVI Burghenses de Bedford.
LVII Praefecti Regis, & Bedelli,
& Elemosynarii.

Northant. scire.

- I **W**illielmus Rex.
II Episcopus Baiocensis.
III Episcopus Dunelmensis.
IV Episcopus Constantiensis.
V Episcopus Lincoliensis.
VI Abbatia de Burg.
VII Abbatia de Westmonast.
VIII Abbatia de Sancto Edmundo.
IX Abbatia de Ramesy.
X Abbatia de Tornyg.
XI Abbatia de Creuland.
XII Abbatia de Coventren.
XIII Abbatia de Evesham.
XIV Abbatia de Grestain.
XV Ecclesia Sancti Remigii Re-
mensis.
XVI Ansgerus Capellanus.
XVII Levinus Presbyter & alii
Clerici.
XVIII Comes Moritonienfis.
XIX Comes de Mellent.
XX Comes Alanus.
XXI Comes Albericus.
XXII Comes Hugo.
XXIII Hugo de Grentemesnil.
XXIV Hugo de Luri.
XXV Henricus de Ferieres.
XXVI Robertus de Toden.
XXVII Robertus de Stadford.
XXVIII Robertus de Oilgi
XXIX Robertus de Veci.
XXX Robertus de Buci.
XXXI Radus Pagenell.
XXXII Radulfus de Limeseio.
XXXIII Robertus Albus.
XXXIV Willielmus de Cahainges.
XXXV Willielmus Peverell.
XXXVI Willielmus filius Ansculfi.
XXXVII Willielmus Loveth.
XXXVIII Walterius de Aincurth.
XXXIX Walterius Flandrensis.
XL Winemarus.
XLI Wido de Renbodcurth.
XLII Eudo filius Huberti.
XLIII Ghilo frater Ansculfi.
XLIV Goisfridus Alselinus.
XLV Goisfridus de Manneville.
XLVI Gil-

XLVI Gilbertus de Gand.
 XLVII Goisfridus de Wirce.
 XLVIII Gunfridus de Cioches.
 XLIX Sigar de Cioches.
 L Suaine Vicecomes.
 LI Siboldus.
 LII Ogerius Brito.
 LIII Dragó de Brueria.
 LIV Maino Brito.
 LV Eustachius de Huntedune.
 LVI Judita Comitissa.
 LVII Gilbertus Coquus.
 LVIII David.
 LIX Ricardus.
 LX Willielmus & alii Taini.

Ledecestrescire.

I **R** Ex Williemus.
 II **R** Archiepiscopus Eboracensis.
 III Episcopus Lincoliensis.
 IV Episcopus Constantiensis.
 V Abbatia de Burgh.
 VI Abbatia de Coventren.
 VII Abbatia de Cruiland.
 VIII Godvinus Presbyter & alii
 Elmosynarii.
 IX Comes de Mellent.
 X Comes Albericus.
 XI Comitissa Godeva, uxor Comit
 Leofrici, qui obiit 1057. or Go-
 deva for Godo, Sister to Edward
 the Confessor, and Wife to Earl
 Eustachius of Bologne.
 XII Comitissa Alveva.
 XIII Comes Hugo.
 XIV Hugo de Grentmaifnil.
 XV Henricus de Ferieres.
 XVI Robertus de Toden.
 XVII Robertus de Veci.
 XVIII Roger. de Busli.
 XIX Robertus Piscator.
 XX Robertus Hostiarius.
 XXI Radulfus de Mortemer.
 XXII Radulfus filius Huberti.
 XXIII Wido de Reinbodcurth.
 XXIV Wido de Credune.
 XXV Willielmus Penrell.
 XXVI Willielmus Buenenvasteth.
 XXVII Willielmus Loveth.
 XXVIII Goisfridus Alselin.
 XXIX Goisfridus de Wirce.
 XXX Goisfridus de Cambray.

XXXI Gunfridus de Cioches.
 XXXII Hunfridus Camerarius.
 XXX III Gilbertus de Gand.
 XXXIV Gilbertus.
 XXXV Durandus Malet.
 XXXVI Drogo de Beurere.
 XXXVII Maimo Brito.
 XXXVIII Ogerius Brito.
 XXXIX Nigellus de Albingi.
 XL Juditha Comitissa.
 XLI Adeliza Uxor Hugonis.
 XLII Herbertus & alii servi.
 XLIII Hugo Comes.
 XLIV Homines Comit. de Mellent.

Warwicscire.

I **R** Ex Willielmus.
 II **R** Episcopus de Cestre.
 III Episcopus de Wirecestre.
 IV Episcopus Baiocensis.
 V Episcopus Constantiensis.
 VI Abbatia de Coventren.
 VII Abbatia de Abendon.
 VIII Abbatia de Bertone.
 IX Abbatia de Malmesburie.
 X Abbatia de Wincelcumbe.
 XI Abbatia de Evesham.
 XII Comes Roger.
 XIII Comes Hugo.
 XIV Comes Albericus.
 XV Comitissa Godeva.
 XVI Comes de Mellent.
 XVII Turchil de Warwic.
 XVIII Hugo de Grentmaifnil.
 XIX Henricus de Ferieres.
 XX Roger. de Luri.
 XXI Robertus de Oilgi.
 XXII Robertus statford.
 XXIII Robertus Dispensator.
 XXIV Robertus de Veci.
 XXV Radulfus de Mortemer.
 XXVI Radulfus de Limesei.
 XXVII Willielmus filius Ansculfi.
 XXVIII Willielmus filius Corbution.
 XXIX Willielmus Buenvasteth.
 XXX Goisfridus de Magneville.
 XXXI * Goisfridus de Werce.
 XXXII Gilbertus de Gand.

* Dugd. War-
 wicshire, f. 50.
 col. 2.

* He was of Britany in France, and of the
 Family assuming that name, from the Territo-
 ry there, called Guerche, adjoining to Anjou.

XXXIII Gilbertus filius Turolidi.
 XXXIV Gerimus.
 XXXV Urso de Abetot.
 XXXVI Stefanus.
 XXXVII Osbernus filius Ricardi.
 XXXVIII Heraldus filius Radi Co-

A mitis.
 XXXIX Hasculfus Hascoit Musard.

XL Nicholaus Balistarius.

XLI Nigellus de Albingi.

XLII Christina.

XLIII Levena.

B XLIV Eddie.

XLV { Ricardus, & alii Taini &
 { Servientes Regis.

XLVI Adeliza Uxor Hugonis.

Statfordscire.

C I **R** Ex Willielmus.

II **R** Episcopus de Cestre.

III Abbatia Westmonast.

IV Abbatia Bertonenfis.

V Ecclesia Sancti Remigii Remensis.

VI Canonici de Stadford & Handone.

VII Sanson Clericus.

VIII Comes Roger.

IX Hugo de Montgomeri.

D X Henricus de Ferier.

XI Robertus de Stadford.

XII Willielmus filius Ansculfi.

XIII Ricardus Forestarius.

XIV Rainaldus Balgole.

XV Radulfus filius Huberti.

XVI Nigellus.

E XVII Chennin & alii Taini.

Sciropefcire.

F I **E** Piscopus de Cestre.

II **E** Episcopus de Hereford.

III Ecclesia Sancti Remigii.

IV Comes Roger.

V Osbernus filius Ricardi.

VI Radulfus de Mortemer.

VII Rogerus de Laci.

VIII Hugo Lafne.

IX Nigellus Medicus.

Quod reliquum est tenet Comes Roger cum suis hominibus.

Cestre-scire.

Tenet Episcopus ejusdem Civitatis de Rege quod pertinet ad suum Episcopatum cum suis hominibus.

Totam reliquam Terram Comitatus tenet Hugo Comes de Rege.

Terrainter Ripe & M-rsham tenuit Rogerius Pictaviensis, modo tenet Rex.

This Roger of Poiton was Third Son of Roger de Montgomery, made Earl of Arundel and Shrovsbury by the Conqueror; he had the Title of Montgomery, from a small Town of that name, in the small County of Liwin, or Lisseux in Normandy, bearing the Title of an Earldom, and when he took the Town of Baldwin in Wales, he called it after his own name Montgomery, where he built the Castle.

Dugd. Baron. Tom. 1. fol. 27. col. 2.

Ibidem col. 1.

Darbyscire.

I **R** Ex Willielmus.

II **R** Episcopus de Cestre.

III Abbatia de Bertone.

IV Hugo Comes.

V Rogerus Pictaviensis.

VI Henricus de Ferier.

VII Willielmus Penrell.

VIII Walterius de Anicurt.

IX Goisfridus Alselin.

X Radulfus filius Huberti.

XI Radulphus de Burun.

XII Hascoit Musard.

XIII Gilbertus de Gand.

XIV Nigell de Statford.

XV Robertus filius Willielmi.

XVI Roger. de Busli.

XVII Taini Regis.

Snotinghamscire.

I **R** Ex Willielmus.

II **R** Comes Alanus.

III Comes Hugo.

IV Comes Moritonienfis.

V Archiepiscopus Eboracensis.

VI Episcopus Lincolienfis.

VII Episcopus Baiocensis.

VIII Abbatia de Burgh.

IX Roger.

IX Roger. de Busly.
 X Willielmus Peverell.
 XI Walterius de Aincurt.
 XII Goisfridus Alselin.
 XIII Radulfus filius Huberti.
 XIV Radulfus de Limesei.
 XV Radulfus de Burun.
 XVI Rogerus Pictaviensis.
 XVII Gilbertus de Gand.
 XVIII Gilbertus Tison.
 XIX Goisfridus de Wirce.
 XX Ilbertus de Laci.
 XXI Berenger de Toden.
 XXII Hugo filius Baldrici.
 XXIII Hugo de Grentemaisnill.
 XXIV Henricus de Ferieres.
 XXV Robertus Malet.
 XXVI Durandus Malet.
 XXVII Osbernus filius Ricardi.
 XXVIII Robertus filius Willielmi.
 XXIX Willielmus Hostiarius.
 XXX Taini Regis.

Rotelande.

I **R** Ex.
 II **R** Juditha Comitissa.
 III Robertus Malet.
 IV Ogerius.
 V Gilbertus de Gand.
 VI Hugo Comes.
 VII Albertus Clericus.

Euruicscire.

I Terra Regis.
 II { Archiepiscopi Eboracensis &
 { Canonorum & hominum ejus.
 III Episcopi Dunelmensis & hominum ejus.
 IV Abbatis de Eboraco.
 V Hugo Comes.
 VI Robertus Comes de Moritonio.
 VII Alanus Comes.
 VIII Robertus de Toden.
 IX Berenger de Toden.
 X Ilbertus de Laci.
 XI Roger. de Busli.
 XII Robertus Malet.
 XIII Willielmus de Warennâ.
 XIV Willielmus de Veci.
 XV Drogo de Holderneffe.

XVI Radulfus de Mortemer.
 XVII Randulfus Pagenell.
 XVIII Walter. de Aincurt.
 XIX Gilbertus de Gand.
 XX Gilbertus Tiso.
 XXI Hugo filius Baldrici.
 XXII Erneis de Burun.
 XXIII Osburnus de Arcis.
 XXIV Odo Balistarius.
 XXV Ricardus filius Erfasti.
 XXVI Goisfridus Alselin.
 XXVII Albericus de Coci.
 XXVIII Gospatric.
 XXIX Terra Tainorum Regis.

Lincolnescire.

I **T**erra Regis.
 II **T** Archiepiscopi Eboracensis.
 III Episcopi Dunelm.
 IV Episcopi Baiocensis.
 V Episcopi Osmundi Sarisberiensis.
 VI Episcopi Constantiensis.
 VII Episcopi Lincolniensis.
 VIII Abbatis de Burg.
 IX Abbatis de Westminst.
 X Abbatis de Ramesyg.
 XI Abbatis de Croilande.
 XII Alanus Comes.
 XIII Hugo Comes.
 XIV Ivo Tallebofc.
 XV Willielmus de Warennâ.
 XVI Roger. Pictaviensis.
 XVII Roger. de Busli.
 XVIII Robertus de Toden.
 XIX Berenger de Toden.
 XX Ilbertus de Laci.
 XXI Henricus de Ferariis.
 XXII Willielmus de Verci.
 XXIII Gilbertus Tison.
 XXIV Gislebertus de Gand.
 XXV Hugo filius Baldrici.
 XXVI Colsuani.
 XXVII Alured. de Lincolnie.
 XXVIII Gozelini filius Lamberti.
 XXIX Endo filius Spirwic.
 XXX Radulfus Pagenel.
 XXXI Drogo de Brurere.
 XXXII Walterius de Aincurt.
 XXXIII Normannus de Aldreci.
 XXXIV Normannus Crassus.
 XXXV Erneis de Burun.
 XXXVI Radus de Mortemer.
 XXXVII Ro-

XXXVII Robertus de Veci.
 XXXVIII Robertus Dispensator.
 XXXIX Wido de Renbudcurt.
 XL Raynerius de Brunon.
 XLI Osbernus de Arcis.
 XLII Ogerius Brito.
 XLIII Ranulph. de Sancto Wallerico.
 A XLIV Durandus Malet.
 XLV Martinus.
 XLVI Waldinus Brito.
 XLII Waldinus Ingeniosus.
 XLVIII Odo Balistarius.
 XLIX Willielmus Blundus.
 L Restoldi.
 LI Godfridus de Cambray.
 B LII Gunfridus de Cioches.
 LIII Osbernus Presbyter.

LIV Radus Dapifer.
 LV Ansgotus.
 LVI Judita Comitissa.
 LVII Wido de Credune.
 LVIII Robertus Malet,
 LIX Robertus de Stadford.
 LX Petrus de Valon.
 LXI Heppo Balistarius.
 LXII Radulfus filius Huberti.
 LXIII Goisfridus de Wirce.
 LXIV Goisfridus Alselinus.
 LXV Balvinus Flandrensis.
 LXVI Willielmus Tallebofc.
 LXVII Colegrin.
 LXVIII Sortebrand.
 LXIX Chetelbern, & aliorum.
 LXX Regis Taini.

Lancashire.

All the Lands between the Rivers *Mersey* and *Ribble* in *Lancashire*, which were the greatest part of it, *Rogerius Pictaviensis* held them, but at the time of the finishing the Survey, they were in the Kings hands: the other part of *Lancashire* is described in *Yorkshire*.

Westmorland, *Cumberland*, and *Northumberland*, are not described, for that they might be at that time in the hands of the Scots, or else in such condition as no Commissioners dare adventure into them, to take the Returns of Juries, and make the Survey.

D Rex Willielmus misit Justiciarios suos per unamquamque Scyram, i. e. Provinciam Angliæ & inquirere fecit per Jusjurandum, quot Hyde, &c. Hæc autem omnia in Chartis Scripta & delata sunt ad Regem, & inter Thesauros reposita usque hodie servantur. Rad. de Diceto. col. 487. n. 50. This Ralph was Dean of St. Pauls, and flourished about the year 1210. Pitsæus in that year. De script. Anglicis.

E These very words are transcribed from Henry of Huntingdon, f. 212. a. n. 10. where he describes an Hyde to be Jugera uni aratro sufficientia per annum; he died Anno 1148. in the Reign of King Stephen, 54 years after this Survey was made.

Porro liber ille (meaning this Survey) sigilli regii Comes est individuus in Thesauro: That is the Exchequer, Gervas. Tilb. lib. 1. c. 28. in fine in lib. Cajo-Gon. p. 41. a.

F Speaking further of this Book, he says, Discretissimos à latere suo destinavit viros per Regnum in circuitu. Ab hiis itaque totius terræ descriptio diligens facta est tam in Nemoribus, quam pascuis & pratis, necnon & agriculturis, &c. Fit autem descriptio per Comitatus, per centurias & Hidas prænotato in Capite ipso, Regis nomine, ac deinde seriatim aliorum Procerum, nominibus appositis secundum status sui dignitatem; qui viz. de Rege Textent in Capite; apponuntur autem singulis numeri,

numeri, secundum ordinem sic dispositi, per quos inferius, in ipsa libri serie, que ad eos pertinent, facilius occurrunt, Ibid. c. 29. in lib. Cajo-Gon. p. 41. a. b.

[1] First In-
stit. f. 65. r. f. 98
a. 2 Institut.
f. 501.

I have shewn in the Reign of the Conqueror, that this Survey was made by Commissioners and Juries; and this Catalogue contains all the Names of such in every County, that held all the Lands of each County of the King, and were most of them *Tenents in Capite*, or Petit Serjanty, for 'tis most certain what Sir *Edward Coke* says: [1] That all the Lands and Tenements in *England*, were holden either immediately or mediately of the King: The Tenents Names are first noted in every County, before the Entrys of particular mens Lands; always the King is placed first, and then the others follow according to the numbers here set down, which in the Survey it self are witten with Red Ink. One Example or two will make it clear.

Dorsete.

N. XXVI. *Terra Comitis Moritonensis.*

[2] Domesday
f. 79. a. col. 2.

Comes [2] *Moriton. Ten. Westone & Haimo de eo Godric, & Bruno tenuerunt in Paragio T. R. E. pro ij Maner. & Geld. pro vij Hid. Terra est vj Car. In Dominio sunt ij. Car. & v. servi & xiv villani & vij Bordar. cum i Car. & Dimid. ib. xl Acr. prati & silva Dimid. leu. long. & Tantund. valuit iv lib. modo vij lib.*

Dorsetshire.

The Land of the Earl of Moreton.

THe Earl of *Moreton* holds *Weston*, and *Haimo* of him, *Godric* and *Bruno* held it in Parage in the time of King *Edward* for two Maners, and it gelded or was taxed for seven *Hides*, the Land is eight *Carucates* or *Plough-lands*; the Demeasns or Lands in the Lords hands, are two *Carucates* and five *Servants*, and fourteen *Villans*, and seven *Bordars* with one *Carucate* and a half, there are forty Acres of Meadow, and Wood half a Mile long, and as much broad, it was valued at four Pounds, now seven Pounds.

This Earl of *Moreton* was half Brother to the Conqueror, and though it is not said in this Entry he held of the King, yet his having a number before his Title, is enough to shew he was a *Tenant in Capite*, or held otherwise immediately of the King.

Somerfete.

N. XVIII. *Terra Hugonis Comititis.*

[3] Ibidem
f. 91. b. col. 2.

Comes [3] *Hugo Tenet de Rege Tedintone, & Willielmus de eo, Ednod Tenuit T. R. E. & Geld. pro una Hida. Terra est iv Carucat. In Dominio est una Car. & iv Servi & v villani & viii Bordar. cum ii Car. ib. v acr. prati & C Acr. Pastur. & xl Acr. silv. valuit & valet xl solid.*

Somer-

Somerſetſhire.

The Land of Earl Hugh.

A **E**arl *Hugh* holds of the King *Tedinton*, and *William* of him: *Ednod* held it in the time of King *Edward*, and it Gelded, or was Taxed at one Hide, the Land is four Carucates: In Demeafns or the Lords hands is one Carucate, and four Servants, and five Villans, and eight Bordars with two Carucates. There is five Acres of Meadow, and an hundred Acres of Pasture, and forty Acres of Wood, it was valued at 40 s. now as much.

Devenescire.

N. XV. *Terra Comitis Moritoniensis.*

A **Lured** [4] *Tenet de eo Stocherlie, ipse Tenebat T. R. E. & Geld. pro uno ferling. Terra est i Caruc. quæ ibi est cum iii Bordar. & ii serv. valet. x sol.*

[4] Ibidem. f. 104. b. i. col.

C **Godwinus** *Ten. Childerleia de eo, ipse Tenuit T. R. E. & Geld. pro Tribus Ferling. Terra est i Car. valet. v. sol.*

Devonshire.

The Land of the Earl of Moreton.

D **A** *Lured* holds of him *Stochelie*, he held it in the time of King *Edward*, as it was rated at one Ferling, the Land is one Carucate, which is there, with three Bordars, and two Servants, it is worth 10 s. per annum.

Godwin holds *Childerley* of him, he himself held it in the time of King *Edward*, it was taxed or rated for three Ferlings, the Land is one Carucate, and is worth five shillings.

E Before the Description of *Shropshire* it is said, and in some other Countries.

F *Hic* [5] *annotantur Tenentes Terram de Rege in Sciropscire:* Here are noted the Tenents, or such as hold Lands of the King, which were only Nine. And then it follows: *Quod reliquum est Tenet Comes Rogerus, cum Hominibus suis.* The Residue Earl *Roger* with hismen doth hold, and some of the men, or Tenents of Earl *Roger*, were these underwritten.

[5] Domesday f. 252. a. col. 1.

Rainaldus [6] *Vicecomes* held of Earl *Roger* 63 Towns, Maners, or Farms in *Shropshire*.

[6] Ibidem. f. 254. a. col. 2.

Roger [7] *Fitz-Corbet* held of him 25 Towns, or Maners, with other small Parcels.

[7] Ibidem. f. 255. b. col. 1.

- [8] Ibidem f. 256. a. col. 1. Robert [8] *Fitz-Corbet*, held of him fourteen Towns or Maners or Farms.
- [9] Ibid. col. 2 Robert [9] the Butler held of him six Towns or Maners or Farms.
- [1] Ibidem. Roger [1] *de Curcell* held of him five Towns or Maners or Farms.
- [2] Ibidem. Roger [2] *de Laci* held of him sixteen Towns and Maners or Farms.
- [3] Ibid. b. col. 1. Robert [3] *Filius Tedbaldi*, or *Fitz-Theobald* held of him four Towns or Maners or Farms.
- [4] Ibidem. Ralph [4] *Mortimer* held of him twenty Towns or Maners or Farms.
- [5] Ibidem. Ranulph [5] *Peverel* held of him four Towns, Maners or Farms.
- [6] Ibidem f. 257. a. col. 2. William [6] *de Waren* held of him one Town.
- [7] Ibidem. William [7] *Pantulf* held of him 28 Towns or Maners, &c.
- [8] Ibid. b. col. 1. William [8] *Maldebeng* held of him four Towns or Maners, &c.
- [9] Ibid. col. 2. Turolde [9] held of him thirteen Towns or Maners, &c.
- [1] Ibid. f. 258. a. col. 1, 2. Picot [1] held of him 25 Towns or Maners, &c.
- [2] Ibid. b. col. 1. Helgot [2] held of him nineteen Towns or Maners, &c.
- [3] Ibid. col. 2. Gerard [3] held of him eighteen Towns or Maners, &c.
- [4] Ibidem f. 259 a. col. 1. Roger [4] *Venator* the Huntsman, or *Venables*, held of him six Towns or Maners, &c.
- [5] Ibidem. Norman [5] held of him six Towns or Maners, &c.
- And many others in that County, which held of Earl Roger less quantities of Land.

All that held under the direct and immediate Title of the *Terra Regis*, were the ordinary Tenents of his *Demeasns*, and where it is said *Rex Tenet*, such a Town, he held it in his own hands, and managed it by a *Præpositus* or *Reve* and Servants; and so of other great Tenents *in Capite*; where it is said they held such and such Maners and Towns, without mentioning any *Tenant* that held under them, (unless it were an omission of the Commissioners that took the Survey, or their Clerks, or the Ignorance of the Jury or Inquest, that might not know them) they were most commonly in their own hands, and managed by a *Præpositus* or *Reve* and Servants. If it were otherwise, and the under Tenents were named, it was thus entered.

* *Sumerfete*,
Domesday, f. 98
a. col. 2.

*Terra * Gisleberti filii Turolde.*

G *Islebertus filius Turolde Ten. de Rege Chivestoch & Osbernus de eo, Edric Tenebat T.R.E. & geldebat pro una Hida & Dimid. Terra est ii Carucat. Quæ ibi sunt in Domin. & ii Servi & ii Bordarii & xx Acr. Prati, & x Acr. Silva Minute. Olim xx sol. modo val. xxx sol.*

The Land of Gilbert Fitz-Turolde.

G *ilbert the Son of Turolde holds Chivestoch of the King, and Osbern of him. Edric held it in the time of King Edward, it Gelded or was Taxed for one Hide and a half, The Land is two Carucates which are there in Demeasns, and two Servants, and two Bordars, and twenty Acres of Meadow, and ten Acres of small Wood, formerly it was valued at twenty shillings now thirty.*

Walterus

*Walterus ten. de * G. Tumbeli. Eāric Teneb. T. R. E. & Geldebat pro v Hid. Terra est v Carucat. in Domin. est i Car. & ii Serv. & v Villani & iv Bordar. & iv Coscez. cum iii Caruc. ibi Molendin. redd. xxx Denar. & xxxv Acr. prat. Pastur. i leug. long. dimid. leug. lat. & tantund. silvæ quando Recep. valeb. C. sol. modo tantund.*

* i. e. Gilberto
fil. Tuoldi.
ib. f. 98. col. 2.

A Walter holds of G. (Gilbert Fitz-Tuold) Tumbeli. Edric held it in the time of King Edward, it Gelded or was Taxed for five Hides. The Land is five Carucates. In Demeasn is one Carucate, and two Servants, and five Villains, and four Bordars, and four Cottars or Cotagers, with three Carucs, Ploughs, or Plough-lands. There is a Mill which pays thirty Pence, and 35 Acres of Meadow and Pasture a Mile long, and half a Mile broad, and Wood as much; when he received it, 'twas worth an hundred shillings, and then as much.

B We find under the last Number, in almost every County, *Taini Regis*, or *Servientes Regis*, and often [6] *Chenuin & alii Taini Regis* xvii. [7] *Richardus & alii Taini, & Servientes Regis*, N. xlv. [8] *Richardus Ingane, & alii Ministri Regis*, N. lviii. many of them are to be found scattered up and down *Domesday-Book*, and their Employments: as in *Wiltshire* Title or Number lxvii. [9] *Terra Odonis & aliorum Tainorum Regis; Forestarii Ten. i. Hid. in Foresta de Gravelings, &c.* The Land of Odo and other the Kings Thanes.

[6] In Stad-
fordshire.
[7] Warwic-
shire.
[8] Oxene-
fordshire.
[9] Domesday
f. 74. a. col. 2.

C The Foresters hold one Hide in the Forest of Gravelings, &c. under the [1] Title of *Terra Servientium Regis*, The Land of the Kings Servants. N. lxvi. *Gundwinus Granetarius*, and *Warinus Arbalistarius*: *Gundwin* that looked after the Granary, and *Warin*, the Cross-bow man are to be found. There also are to be found, *Turstin*, and two *Alberics*, and *Odin*, all Chamberlains. [2] *Godwinus Præpositus*, *Godwin* the Kings Bayliff, one that managed his Farms for him in *Dorsete*, under the Title of *Terra Tainorum Regis*, The Land

[1] Ibidem
f. 74. b. col. 2.

D of the Kings Thanes, N. lvi. in the same County, N. lvii. under the Title [3] of *Servientes Regis*, *Cubicularius*, & *Pistor*, a Chamberlain and Baker are noted. *Hugolinus Interpres*, [4] *Hugolin* the Interpreter in *Devenescire*, under the Title of *Terra Servientium Regis*. [5] *Willielmus Portar. & Willielmus Hostarius*. *William* the Porter, and *William* the Door-keeper, and under that Title the Priests or Chaplains were comprehended. [6] *Ipsi Presbyteri ten. Niwetone*, the Priests or Chaplains hold *Newton*. In *Hantescire* we

[2] Ibidem
f. 84. a. col. 2.

E find *Waleranus Venator*, *Waleran* the Huntsman, *Willielmus Arcuarius*, *William* the Bowyer, *Herbertus Camerarius*, *Herbert* the Chamberlain, *Henricus Thesaurarius*, *Henry* the Treasurer, *Croch Venator*, *Croch* the Huntsman, *Goisfridus Marecallus*, *Geofry* the Marshall, *Nigellus Medicus*, *Nigell* the Physitian, *Aluredus Presbyter*, *Alfred* the Priest, *Durandus Tonforator*, *Durand* the Barber, and *Ranulph Flamme*; *Goisfridus Camerarius*, *fili Regis*, *Geofry* the Kings Sons Chamberlain, and *Humfridus Camerarius*, *Humfry* the Chamberlain.

[3] Ibidem
f. 85. col. 1.
[4] Ibidem
f. 99. col. 2.
[5] Ibidem
f. 117. b. col. 1.
[6] Ibid. col. 2.

Further to shew the meaning of these Titles, *Terra Tainorum Regis*, *Servientium Regis*, & *Ministri Regis*, and to make plain what the Thanes, Servants, and Ministers here meant, were, I will insert an Inquisition of the Serjancies of *Essex* and *Hertfordshire* in the time of King John.

[7] An

[7] Red Book
in the Exche-
quer, fol. 137.

[7] *An Inquisition of the Serjancies and Knights Fees
in the Twelfth and Thirteenth years of King John.*

Essex,

Hertford.

Serjancia eorundem Comitatum.

The Serjancies of those Counties.

Johannes de Listone per Serjanciam faciendi canestellos.

John of Liston by the Service of making Baskets, he held that Town or Farm so called by that Service.

Richardus Marſcallus Tenementum ſuum custodiendi Palefridum Regis.

Richard the Marshal possessed what he had in those Counties, as Keeper of the Kings Pad or Riding Nag.

Willielmus Parmentarius, Tenementum ſuum in Stebinge per 30 solid.

William Parmentar, possessed what he had in Stebinge, by ten Shillings Rent. Here ten Shillings Rent is accounted a Serjancy.

Gilbertus de Mepertſhall v. s. in Fulleſtode per manum Gilberti Mauduit.

Gilbert of Mapertſhall received five Sillings per annum by the hands of Gilbert Mauduit.

Simon de Aſſewell dimid. Hida in Aſſewell, per Serjanciam Hoſtelar.

Simon of Aſhwell had half a Hide in Aſhwell by the Serjancy of the Stables.

Petrus Picot dimid. Heydene per Serjanciam ſerviendi cum una Toalia ad Coronationem Regis.

Peter Picot holds half Heyden by the Serjancy or Service of serving with a Towel at the Coronation of the King.

Petrus filius Petri Picot aliam medietat. per Serjanciam ſerviendi de Bacinis.

Peter the Son of Peter Picot, holds the other half of Heyden, by the Service or Serjancy of holding the Bacin or Baſon.

Radulfus Monachus Eystane per Serjanciam Lardinaria.

Ralph the Monk holds Eystan, by Serjancy of the Lardar, he was Clerk probably of the Lardar.

Radus de Toany Wilcomſtowe per Serjanciam eundi in propria Persona cum Domino Rege in exercitum.

Ralph de Tony holds Wilcomſtowe by the Serjancy of going with the King in his own Person into the Army. 'Tis not ſaid with Horſe and Arms.

*Willielmus filius Johannis Tenementum in Legre per Serjanciam eundi in exercitum in Walliam cum Domino Rege cum uno equo * ſacco & Brocha.*

William Fitz-John holds a Tenement in Legre by the Serjancy of going into the Army with the King, as in the Gloſſary.

Radulfus Picot unam Carucatam in Eidele & unam Carucatam in Salings per Serjanciam custodiendi unum Niſum ad opus Domini Regis, & eſt de Feodo de Reynes ut dicitur.

*See the Gloſſary, in verbis iſtis.

Ralph

Ralph Picot holds one Carucate in *Eidele*, and one Carucate in *Sallings*, by the Serjancy of keeping one Hawk for the use of the King; and it is of the Fee of *Reynes* as is said.

Gofridus de Barenton dimia' virgat' in Hethfeld per Serjanciam custodiendi Parcum Regis & Boscum in eadem villa.

Geofry of Barenton half a Virgate of Land in *Hatfield* by the Serjancy of keeping the Kings Park and Wood in that Town.

A *Walterus de Hanvill LX sol. Terr. in Hallingbury de Walla per Serjanciam Falconariae per Regem Ricardum.*

Walter of Hanvill sixty Shillings of Land by the year, by the Serjancy of the Falconry, or of being one of the Serjants of the Hawks, granted by King Richard.

Radus Purtel LX sol. Terra ibidem per Serjanciam in Hospitio Regis.

Ralph Purtel by Serjancy or for Service in the Kings House, sixty Shillings of Land, that is 60 s. per annum, in Land of that value.

B *Rogerus de Leyburn, Robertus de Sutton de eo, Bures per Serjanciam Escaldandi porcos Regis.*

Roger de Leyburn holds Bures, and Robert de Sutton holds it of him, by the Serjancy of scalding the Kings Hogs.

Robertus de Sutton Hundr. de Berdestaple per xviii l. ad firmam Vicecom. ad Feodi Firmam.

Robert de Sutton holds the Hundred of Berdestaple, by eighteen pounds in Fee-Farm, towards the Sheriffs Farm.

C *William Torel tenet in parva Toriel per Serjanciam Napariae.*

Walter Torel holds in little Torel, by the Serjancy of or attending upon the Napary.

Boydin Aylet Quatuor lib. Terra in Bradwell per manum Willielmi de Dona per Serjanciam Claviae.

Boydin Aylet hath four Pounds by the year in Land in Bradwell, paid him by William de Dona, by the Serjancy of the Club or Mace.

Willielmus Cains sex lib. Terra ibidem per Serjanciam Claviae.

D John Cains hath there six Pounds by the year in Land, by the Serjancy of the Club or Mace.

Johannes de Sandford, Woluermerstone per Serjanciam in Camera Regine, & Fingret & Ginges, & Houmede & Huchamstede.

John de Sanford holds Wolmerston, Fingret, Ginges, Houmede, & Huchamstede, by Serjancy or Service in the Queens Chamber.

Willielmus de Moucell parvam Angre per Serjanciam Marefcalciae de Baronia G. de Toany.

E *Willielmus de Moucell holds little Angre by the Serjancy of the Marshalsee, or Service in the Marshals Office, of the Barony of G. de Tony.*

Robertus Marschallus unam Hidam in Badew per Serjanciam custodiendi Palfridum Regis.

Robert Marshal holds one Hide in Badew by the Serjancy or Service of keeping the Kings Palfry or Pad.

Brianus Aquarius Terram quae fuit Walteri de Martinas in Writtele, per Serjanciam Forestariae, & per xx sol.

F Brian Waterman holds the Land which was Walter Martinas his Land, in Writel by the Serjancy or Service of the Forest, and by 20 s. Rent.

Gilbertus de Mepertshale duas Hidas per Serjanciam Lardinariae.

Gilbert of Mepertshal holds two Hides by Serjancy in the Larder.

Ricardus de Argentoem Willemundele per Serjanciam serviendi cum una Cuppa Argentea ad Coronationem Regis.

Richard

Richard Argenten (now *Allington*) holds *Wimondley* by Serjancy, or serving with a Silver Cup at the Coronation of the King.

Henry Major London Wattoll per *Serjantiam inveniendi unum peditem in exercitu Regis in Wallia cum Arcu & sagittis.*

Henry the Mayor of *London* holds *Wattoll* by the Serjancy of finding a man with Bow and Arrows in the Kings Army in *Wales*.

Williclmus Hures Tenementum suum in Haveringe per *Serjantiam custodiendi Parcum.*

William Hure holds his Estate in *Haveringe*, by the Serjancy of keeping the Park.

Johannes Derwine Tenementum suum ibidem per *Serjanciam custodiendi forinsecum Boscum.*

John Derwin holds his Estate there, by the Serjancy or Service of keeping a Wood in another place distant from the Town.

Ricardus filius Aucheri Tenementum suum in Eppinges & Waltham per *Serjanciam Ateindre coram Rege.*

Richard Fitz-Aucher holds his Estate in *Eppinge* and *Waltham*, by waiting before the King (as I think) or perhaps, doing some Office before him when he travelled.

Mamgarus le Napper Terram in Waltham per *Serjanciam Naparie.*

Mamgar the *Naperer* holds his Land in *Waltham* by Serjancy or Service in the *Napary*.

This Inquisition of Serjancies was made in every County in *England* at the same time, they were Petit Serjancies, and these Serjants or Servants were the same with the *Thanes*, *Servants*, or Kings *Ministers* mentioned in *Domesday-book*, and the Lands of the same nature with *Thane* Lands there mentioned, &c.

There are in *Essex*, *Norfolk* and *Suffolk*, three Titles of the same import, and are in no other County, viz. in *Essex* *Invasiones*, N. XC. in *Norfolk* *de Invasionibus*, N. LXVI. in *Sudfulc.* *Invasiones super Regem*, N. LXXVI. under these Heads were contained such Lands as were possessed without a Title from the Conqueror. That is, they that held them, were neither put in Possession by the Sheriff with Authority from the King, nor by his Legal or Special Commissioner, nor by his Writ or Brief, and so they were Invaders or Intruders, and possessed without Title, and the Lands called *Invasions*.

Communia

Communia de termino Sancti Hillarij Anno XVII E. 3.

Recorda.

Penes Remo-
rator. Domini
Regis in Scacc.

Warr. de Pri-
ore de Coventr.
attach. pro
transgression.

Record 2.

Prior de Coventr. attachiatus fuit ad reddendum Domino Regi de servitio octo feodorum militum per ipsum Priorem & Prædecessores suos Regi & Progenitoribus suis ab Anno 29. Domini Regis H. Proavi ipsius Regis nunc Substracto & conce-
lato. Et ipse Prior per Henricum de Stretford Attorn' suum venit. Et super hoc quia Barones plene volunt informari pro Rege per Rotulos & Memoranda Scaccarii de de quibusdam negotium prædictum tangentibus antequam, &c. Datus est dies eidem Priori hic ex assensu Willielmi de Thorpe Servientis Regis a die Pasche in quindecim dies eo statu, &c. Ad quem diem Prior venit & quia nondum plene Scrutinium, &c. Datus est dies eidem Priori ex præfixione Cur' in Octabas Sanctæ Trinitatis eo statu, &c. Et interim facto scrutinio Rotulorum, &c. Compertum est in Rotulo 29. Regis Henrici tertii sub titulo de Auxilio ad primogenitam filiam Regis maritandam videlicet de *quolibet Scuto xx s.* contineri Sic Prior de Coventr' reddit compotum de *decem libris* de *decem feodis* de quibus quidem *decem libris* Willielmus Trussel Vicecomes dicti Comitatus in Compoto suo de Anno 32 ipsius Regis Henrici oneratus fuit inter alia debita quæ debebat in fine ejusdem Compoti sicut continetur in magno Rotulo de eodem Anno 32. & in Rotulo 31. ejusdem Regis Henrici compertum est etiam in quodam Rotulo Compotorum titulado Auxilium Episcoporum Abbatum Priorum concessum ad Sororem Regis Henrici maritandam Fredirico Imperatori videlicet de *quolibet Scuto duas marcas* contineri in hunc modum Prior de Coventr' reddit compotum de *viginti marcis* de eodem. In Thesaurario octo marcas & debet duodecim marcas de quibus respondet in Warr' in Rotulo 34. Et in eodem Rotulo 34 requirebantur de ipso Priore *quindecim marca* de auxilio ad transfretationem Regis in Vasconiam & *duodecim marca* de auxilio ad Sororem Regis maritandam. De quibus quidem duobus debitis idem Prior postmodum Regi Satisfecit sicut continetur in Rotulis annalibus de annis 36, 39, & 40. dicti Regis Henrici tertii. Item compertum est in rotulo de *Servitio* Regis Edwardi filii Regis Henrici Summoniti apud Rothe-
lan die Dominica in crastino Sancti Petri ad vincula Anno Regni sui decimo contra Lewelinum filium Griffiæ & David fratrem ejus & alios Walenses quod Prior de Coventr. recogn' *Servitium duorum feodorum militum* pro quo finem fecit Et in rotulo de finibus factis pro *Servitiis* Scotiæ Anno ejusdem Regis Edwardi tricesimo primo annotatur quod Prior & Conventus de Coventr' recognoverunt *Servitium duorum feodorum militum* & finem fecerunt per *quadraginta libras*. Et in Rotulo de finibus pro *Servitiis* Scotiæ Anno 34. ejusdem Regis Edwardi filii Regis continetur quod Prior de Coventr' per fratrem Johannem Holeweye Commonachum & Attornatum suum recognovit *servitium duorum feodorum militum* & finem fecit pro eodem per *quadraginta marcas*. Et inter fines factos in Scaccarii coram tenente locum The-
saurarii

faurarii & Baronibus pro *servitiis* Regi debitis in exercitu Scotiæ Anno Regis Edwardi filii Regis Edwardi septimo, videlicet pro *Servitio unius feodi viginti marcas* continetur quod Willielmus Herle & Robertus de Leicestr' *finem* fecerunt cum Rege pro Priore de Coventr' pro *servitio duorum feodorum militum* per *quadraginta marcas*. Et prædictus Prior ad prædictas Octabas Trinitatis venit ut prius per Attornatum suum prædictum. Et Willielmus de Thorp, & Johannes de Stoford Servientes Regis veniunt pro Rege. Et super hoc expositis præfato Priori hiis quæ per Scrutinium Rotulorum inveniuntur ut supra & per ipsum Priorem auditis & intellectis iidem servientes Regis petunt quod idem Prior super hoc respondeat, &c.

Placitum Priori.

Et prædictus Prior dicit quod ipse & prædecessores sui tenuerunt omnia terras & tenementa sua tam videlicet ea quæ habet in dominico quam in servitio per *servitium duorum feodorum militum* tantum. Et quod Dominus Rex seu Progenitores sui de aliquibus aliis servitiis per ipsum Priorem seu Prædecessores suos nunquam seisisi fuerunt per *finem* seu *servitium* per corpora hominum factum quod liquere poterit per Memoranda hujus Scaccarii si fiat inde Scrutinium, &c. Et quoad hoc quod compertum est hic in Rotulis, &c. Quod tempore dicti Regis Henrici tertiæ computatum fuit de certis pecuniæ summis de auxiliis eidem Regi Henrico ad filium suum militem faciendum & Sororem suam maritandam concessis, hoc ei non prejudicat in hac parte. Dicit enim quod Auxilia illa non fuerunt nec censi possunt esse *Servitia*, immo quædam subsidia per Magnates & Communitatem Regni Spontanea & mera voluntate Regi concessa, & tam de tenentibus aliorum quam de tenentibus de Domino Rege in Capite levanda quo prætextu dictus Compotus de auxiliis prædictis fuit tam pro feodis tenentium tunc Prioris loci prædicti quam pro feodis ipsius Prioris propriis, quod idem Prior dicit posse liquere Curia per Certificationem tunc Prioris loci prædicti tunc Baronibus de Scaccario de mandato Regis Henrici factam de feodis quæ ipse tunc Prior tenuit de veteri feoffamento & de novo super quo certificatum fuit quod feoda quæ dictus tunc Prior tenuit in Dominico & feoda quæ tenentes sui de ipso tenuerunt fuerunt in toto decem feoda, &c. Et petit iudicium desicut ipse tenet omnia terras & tenementa sua per *Servitium duorum feodorum militum tantum*, nec sit compertum hic penes Scaccarium quod Dominus Rex seu Progenitores sui de aliquibus aliis seu pluribus servitiis per manus dicti Prioris seu Prædecessorum suorum unquam seisisi fuerunt si ipse de aliquo feodo seu huiusmodi *servitio conclato* impetiri seu calumpniari debet in hac parte. Et super hoc quia dicti servientes Regis volunt super responso suo deliberare, &c. Datus est dies eidem Priori hic in Octabas Sancti Hillarii eo statu, &c. Ad quem diem prædictus Prior venit & ob eandem causam qua prius datus est ei dies ulterior hic a die Pasche in quindecim dies eodem statu quo prius. Ad quem diem idem Prior venit & ob dictam causam adjournatur ulterius usq; quindenam Sanctæ Trinitatis, eo statu, &c. ad quem diem ven' & datus est ei dies ulterius usq; Octabas Sancti Michaelis anno viz. decimo nono Regis hujus eo statu quo, &c. Ad quem diem venit & ob causam prædictam adjournatur ulterius usq; quindenam Sancti Hillarii eo statu, &c. Ad quem diem idem Prior venit & habet diem ulterius usq; quindenam Sancti Pasche. Ad quem diem idem Prior venit & adjournatur ulterius ob causam

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causam prædictam usq; quindenam Sanctæ Trinitatis. Ad quem diem venit & ob eandem causam habet diem ulterius usq; quindenam Sancti Michaelis. Ad quem diem Prædictus Prior venit & adjornatur ulterius ob causam prædictam usq; quindenam Sancti Hillarii sicut continetur in Memorandis anno vicesimo Regis hujus inter dies datos de Terminis Sancti Michaelis.

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B

C

D

D 2

Claus.

E

F

Claus. 25 E. 1. m. 6. dorso.

Record 3.

* No Direction
in this Writ to
have citizens,
or Burgeses
chosen.

* His Letters
That this
payment of
the Eighth
part of their
Goods should
be no prejudice
to them for the
future.

Rex Vicecomiti Eborum Salutem. Quia in relevationem omnium incolarum et populi regni nostri pro *octava* omnium bonorum singulorum laicorum per totum idem regnum pro urgentissima nunc dicti regni contra Gallicos necessitate levanda concessimus pro nobis et heredibus nostris confirmari et firmiter teneri facere *Magnam Cartam* de libertatibus Anglie et *Cartam* de libertatibus *Foreste* et concedere omnibus et singulis ejusdem regni literas nostras patentes quod dicte *octave* levatio non cedet eisdem in *prejudicium servitutem exheredationem* usum vel consuetudinem in futurum tibi precipimus firmiter injungentes quod sine dilatione aliqua duos de probioribus et legalioribus * *Militibus* Comitatus tui eligi et eos plenam potestatem pro ipsis et tota *Communitate* dicti Comitatus habentes ad Edwardum filium nostrum Carissimum tenentem in Anglia locum nostrum venire fac' Ita quod sint London ad eundem filium nostrum modis omnibus in octabis Sancti Michaelis proximo futur' ad ultimum *Cartas* super Confirmatione nostra *Cartarum* prædictarum et * *litteras nostras* super dicta concessione pro ipsa Communitate in forma predicta Recepturi, et *facturi* ulterius quod per dictum *filium* et *Consilium* nostrum ibidem fuerit *ordinatum* et hoc nullo modo omittas et habeas ibi hoc breve Teste Edwardo filio Regis apud Sanctum Paulum London decimo quinto die Septembris.

Consimiles litere diriguntur Singulis Vicecomitibus per Angliam.

In-

*Inter Communia Brevia de Termino Sanctæ Trin.
Anno Regni Regis E. 1. XXXIV.*

Memorandum quod cum nuper Dominus Rex ordinasset quod *Edwardus* Filius. suus primogenitus in Festo *Pentecostes* Anno Regno sui tricesimo quarto Cingulo Militie decoraretur & mandatum esset Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus & aliis Magnatibus Regni quod essent coram ipso Domino Rege & Concilio suo apud Westmon. in crastino Sanctæ Trinitat. proximo sequente ad tractandum & ordinandum de auxilio Regis faciendo ad Militiam prædictam & ad Consentiendum hiis quæ ulterius ordinarentur in hac parte vel quod procuratores aut attornatos suos sufficienter instructos ad præmissa loco eorum facienda mitterent tunc ibidem.

Ac etiam præceptum fuisset singulis Vicecomitibus Angliæ quod eorum quilibet venire faceret de Com. suo ad præfatos diem & locum *duos Milites*, & de qualibet *Civitate* Ballivæ suæ *duos* cives, & de quolibet Burgo ejusdem Ballivæ suæ *duos* Burghenses, vel ** unum* &c. Ad tractandum ordinandum & consentiendum sicut prædictum est.

Venerunt personaliter coram Rege & Consilio suo apud Westmon. ad diem illum Antonius Bek Patriarcha Jerosolomitani Episcopus Dunelm. W. de Langeton Coventr. & Lich. Radus de Baldok Lodon Episcopi, H. de Lacy Comes Lincoln J. de Warennia Comes Surr. R. de Monte Hermer. Comes Gloucestr. & Hertf. H. de Boun Comes Hereford G. de Bello Campo Comes Warr. Robertus filius Walteri Hugo le Despenfer Johannes de Haltinges Hugo de Veer, Willielmus Martyn, Henricus le Tyeys, Johannes Lovell, Rogerus de Mortuomari Johannes de Mohum Alanus la Zouche, Will's de Reyburn, & Robertus de Burghersh, Custos Quinque Portuum cum quibusdam Baronibus Portuum eorundem.

Ac etiam per Procuratores & Attornatos Robertus Cantuar. & Will's. Ebor. Archiepiscopi Thom. Exon Richardus Hereford, Johannes Wynton, Johannes Cicester, Thom. Rossen, Robertus Elyen, Johannes Norwycen, Johannes Lincoln, Simon Sarum, Will's Wygorn, Walterus Bathon, & Wellen, & Johannes Karliol Episcopi, Abbatess Westmon. Sancti Edmundi, Sancti Augustini Cantuar. Sancti Albani, Glastonie, Burg. Sancti Petri Rammeseye, Thorneye, Seleby, & Malmesbury, Sancti Petri Gloucestr. Rogerus Comes Norff. & Marfc. Angliæ Thomas Comes Lancastr, Edmundus Comes Arundell, & quam plures alii *Prælati Magnates*, & *Proceres* Regni; Nec non de *quolibet* Comitatu Regni ejusdem duo Milites & de *qualibet* Civitate duo Cives & de *quolibet* Burgo duo Burghenses electi per *Communitates Comitatum Civitatum*, & *Burgorum* eorundem ad præmissa loco *Communitatum* eorundem tractandum, ordinandum & Consentiendum similiter venerunt.

Quibus

Penes Rememorat' Domini. Thes. in Scaccario.

Record. 4.

* This Record is cited in Mr. Petit's Appendix, but he hath left out the word Unum, which is also to be found in the Writ of Summons to this Parliament, Cl. 34. Edw. 1. M. 15. Dors. in Ced. T. R. apud Winton, 5 Die April.

Quibus prædictis omnibus *Congregatis* coram *Concilio* Regis prædicto ipsisq; ostensò per idem *Concilium* ex parte Regis quod de Jure Coronæ Regiæ *Auxilium* Domino Regi fieri debuit in casu prædicto; ac etiam quod *expense* multiplices & alia quam plura *onera* eidem Domino Regi incumbunt, ad *rebellionem* & *maliciam* Roberti de Brus *Proditoris* ipsius Domini Regis & sibi in partibus *Scotie* adherentium qui adversus ipsum Regem jam in illis partibus *guerram* movere præsumpserunt reprimendas.

* Idem *Prelati, Comites, Barones, & alii Magnates*, necnon *Milites Comitatum tractatum* super hoc cum deliberatione habentes considerantesq; *auxilium* deberi ut prædictum est, & quam plura *onera* Regi incumbere propter *guerram* prædictam tandem *unanimiter* Domino Regi *Concesserunt* pro se & *tota Communitate* Regni *Tricesimam partem* omnium bonorum suorum temporalium mobilium quæ ipsos habere contingit in festo Sancti Michaelis proximo futuro habendam pro auxilio eidem Domino Regi competente ad *Miliciam* filii sui prædicti ac etiam in *Auxilium* *Misrarum* quas ipse est factururus circa *guerram* prædictam. Ita tamen quod ista *concessio* ipsis vel eorum successoribus aut hæredibus futuris temporibus nullatenus *cedat* in *præjudicium*, nec in casu hujusmodi trahatur in exemplum & quod in taxando bona prædicta excipiantur omnia que in taxatione Quintedecime a Communitate Regni Domino R. Anno Regni suo xviii. concessæ propter exilium Judeorum fuerunt excepta.

* *Cives* quidem & *Burgenses* Civitatum ac Burgorum, ac *cæteri de Dominicis* Reg. *congregati* & super premissis *tractatum* habentes considerantesq; *onera* Domino Regi *inmumbentia* ut præmittitur eidem Domino Regi *unanimiter* concesserunt ob *causas* supradictas *VICESIMAM partem* bonorum suorum mobilium habendum ut prædictum est.

* Note in these times the Citizens and Burgesses were not reputed, or taken to be part of the Community of the Kingdom; Nor were the Tenants of the Kings Demesnes, for these treated and consulted by themselves, and gave a different Sum, which was a Twentieth part, viz. a Third part more than the others, which was in those days usual.

* Note, the Prelates, Earls, Barons, and other Great Men, and also the Knights of the Shire, (which were then Doublets, Tenants in Capite, and represented the Tenants in Capite or Community in every County) under that notion consulted and treated with the Earls, Prelates, Barons, and other Great Men, and granted for themselves and the whole Community of the Kingdom, a Third part of their Goods.

Pat. 48. H. 3. M. 6. Dors.

HEc est forma pacis a Domino Rege & Domino Edwardo filio suo Prelatis & Proceribus omnibus cum *Communitate totâ* Regni Anglie communiter & concorditer approbata videlicet quod quedam ordinatio facta in Parlamento Londini habito circa festum Nativitatis beati Johannis Baptiste proximo preteritum pro pace Regni conservanda quousq; pax inter dictum Dominum Regem & Barones apud Lewes per formam cuiusdam miſe prelocuta compleretur duratura omnibus diebus predicti Domini Regis & etiam temporibus Domini Edwardi postquam in Regem fuerit assumptus usq; ad terminum quem ex tunc duxerit moderandum firma maneat stabilis & inconcussa. Dicta autem Ordinatio talis est.

Record 5.

This

This is the Preamble of the Form cited in
the next Record.

Carta 49. H. 3. M. 5.

Forma pacis
inter Regem
& Barones.

Record 6.

* Pat. 48. H. 3.
M. 6. Dors.
Here wants the
Preamble
which is noted
above, Record
5.

COMÉ Munseur Edward einz finz nostre Seignor le Rois de Angleterre e munseur Henr. finz le Rois de Alemaine par la volunte nostre Seignor le Rois e la lour se furent mis *ostages* descre la pes de Engleterre feust bien afermee e asseuree: accorde est pur la pes de la terre meinteür. e pur la deliverance desauant ditz munseur Edward e de munseur Henr. entre nostre Seignor le Roy e eus e les *Barons* de la tere qe le *ordenement* qe fu purueu a Londre par comun acorde des *prelaz* e des *hauz homes* de la tere qe la furent en *mois* de *Jun* lan nostre Seignor le Rois *xlviime* soit fermement garde e meintenuen la forme qe il estoit purueu qe est icele.*
Ad reformationem status Regni eligantur seu nominentur *tres* discreti viri & fideles de regno qui habeant potestatem & auctoritatem a Domino Rege eligendi seu nominandi vice Domini Regis Consiliarios *novem* de quibus *novem*, tres ad minus alternatim seu vicissim semper in Curia sint presentes & Dominus Rex de consilio eorundem novem ordinet & disponat de Custodia Castrorum & aliis omnibus regni negociis. Preficiat etiam Dominus Rex per *Consilium* eorundem *novem* *Iusticiarium*, *Cancellarium*, *Thesaurarium*, & alios *officiales* majores & minores in hiis que spectant ad regimen *Curie* & *regni*. Jurabunt autem *primi electores* seu nominatores quod secundum conscientiam suam eligent seu nominabunt Consiliarios quos credent honori dei & ecclesie, regi & regno utiles & fideles. Consilarii quoq; & omnes *officiales* majores & minores in sua creatione jurabunt quod officia sua pro posse suo ad honorem Dei & ecclesie & ad utilitatem regis & regni absq; munere preter esculenta & poculenta que communiter in mensis presentari solent fideliter exequentur. Et si predicti Consilarii vel aliqui eorum in administratione sibi commissa male versati vel versatus fuerit vel fuerint vel sint ex alia causa mutandi vel mutandus, tunc Dominus Rex per *Consilium* predictorum *trium* nominatorum seu electorum quos vel quem amovendos viderit amoveat & loco eorum vel ejus qui amotus fuerit per eosdem, alios vel alium fidelem & idoneum subroget & substituat. Si autem *officiales* majores vel minores in officiis suis male versentur Dominus Rex per *Consilium* dictorum *novem* ipsos amoveat & alios seu alium sine dilatione per consilium predictorum loco illorum vel ejus substituat. Et si *primi tres electores* seu nominatores in electione vel nominatione Consiliariorum aut alicujus consilarii, aut forte Consilarii in Creatione officialium vel aliis negotiis Domini Regis & regni gerendis seu disponendis discordes fuerint quod a duabus partibus concorditer factum vel ordinatum fuerit firmiter observetur, dummodo de illis duabus partibus *unus* sit *Prelatus* Ecclesie in negotiis Ecclesiam contingentibus. Et si contingat duas partes dictorum *novem* in aliquo negotio non esse concordēs, de discordia illa stabitur ordinationi primorum trium electorum seu nominatorum aut majoris partis eorundem. Et si videatur

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deatur *Communitati* prelatorum & Baronum concorditer expedire quod aliqui vel aliquis loco aliquorum vel alicujus *primorum trium* nominatorum seu electorum subrogentur vel subrogetur aut substituantur Dominus Rex per consilium *Communitatis* prelatorum & Baronum alium vel alios substituat. Omnia autem predicta Dominus Rex faciet per consilium predictorum *novem* in forma subscripta vel ipsi vice & auctoritate Domini Regis, presente ordinatione duratura donec *misa* apud Lewes facta est & postea a partibus figillata concorditer fuerit adimpleta vel alia forma provisa, quam partes concorditer duxerint approbandam. In cujus rei testimonium Domini R. Lincolnienfis & Hugo Eliensis Episcopi, R. Comitatus Norfolcie & Marecallus Anglie, R. de Veer Comes Oxoniensis, Humfridus de Bohun, Willielmus de Monte Canis *Major* London Signa sua huic scripto apposuerunt. Datum in *Parlamento* London *mensse Junii* anno Domini MCCLXIV. E qe cest ordene-
ment soit mieuz garde nostre Seignior le Roi doit comaunder e en-
joindre e munseur Edward assentir e requere as *hauz homes* e au
comun de la tere par lur lettres overtes qe demorrent en chescun Conte
qe cest ordenement fermement tengent. Estre ceo acorde est qe
nostre Seignior le Roi, ne Munfir Edward, le Conte de Leyc. ne le
Conte de Glouc. ne leur aliez ne les genz de Londres, ou des Cink-
porz ne nul qe eit este de lur partie, * en queuq; liu ou de queuque
liu qe il soient, ne ascheseveront, ne greveront par acheson des choses
qe eient este fetes eu tens de troublee eu de la guere qe adeste
ne a eus damage ne ferent ne procuront ne foseront a fere par leur
balifs. E si nostre Seignior le Roi ou Munfir Edward vole venir en
contre la pes, ele ordenement avantdit, ou les Contes de Leyc. ou
de Glouc. ou nul de lur partie grever par acheson des choses avant-
dites qe les *hauz homes* e le *comun* de la tere soient contre eus pur
eus grever a tot leur poer, ne ne lur soient obeisant de rien, en fa-
cent tot anfi com il ne leur fusent de rien tenuz desqe ces choses
soient amendees e a drestees e maintenues solum la forme del or-
denement e de la pes avantditz. Sanne ceo qe qant les choses fer-
ront amendees e a drestees si com il est de suzdit, qe touz lur soient
obeisaunt e tenu com devant. E nostre Seignior le Roi e munfir
Edward unt jure sur les seintes Ewangelis e les *hauz homes* e le
comun de la tere jurront par commaundement nostre Seignior le Roi
e par lassentement e la requeste munfir Edward e par leur lettres
overtes qe nostre Seignior le Roi e munfir Edward e tuz les *hauz ho-*
mes de qi len les vodra aver endeiront ices choses a fere e a tenir
si com il est avandit, E si issint estoit qe acun alast en contre
cest ferelement ou aidast al Roi ou a munfir Edward ou a autre
contre ces choses desus escriptees e de ceo soit atteint, par agard du con-
seil nostre Seignior le Roy e des *hauz homes* de la tere soi pris ou
banni du reaume de Engleterre e desheritez lui e ses heirs a rema-
naunt, e de lur teres soit fet solum les lois e les usages de la tere,
ausi come des teres a ceux qe sont ateint de felonie. E *este chose*
est fermement establi par le Roi e munfir Edward e par le comun de la
tere, e de ceo eit em lettres overtes de tuz ceus qe unt este suspen-
tenus en contre ceste bosoine qe il otreient qe issint soit fet si il ve-
nent en contre en nul point. E estre ceo les granz Chartres des
communes franchises e des forestes qe ont plusore foiz este ot-
treies e escomenge tuz iceus qe en contre vendroient e les Articles
qe estoient despeca porueues par acord nostre Seignior le Roie des

* In quocun-
que loco, vel
de quocun-
que loco.

hauz homes de la tere les queus nostre Seignor le Roi ne ad geres
 qant il estoit a *Wirecestr.* envia par toz les *Contees* de souz sun
seel soient fermement tenuz e ceo unt jurre nostre Seignor le Roi e
 munfir Edward e tuz les Justices Viscontes e Bailifs de la tere e les
 Bailifs nostre Seignor le Roi e de munfir Edward e tuz autres a qi
 qe il soient feront meimes le serement Issi qe nul ne lur soit tenu
 a obeer devant ceo qe il eient fest cest serement. E si nul venie
 encontre soit grevement puni par agard de la *Cure* le Roi. Sauue A
 les privileges a clers si com il apent. E pur ceo qe nostre Seignor
 le Roi devant la bataille de Lewes avoit desie plosurs. de ses bone
 gent de sa tere e mis hors de sa foi, e eus par leur bone volentee le
 vollent reconustre derichef com Seignor, accorde est qe tuz iceus
 qe estoient de son homage e estoient diffiez lui facent homage de
 novel solom le usage de la tere. Sauue ceo e espresement, excepe
 qe sil veut venir contre les choses desusdites, qe leu ne lui soit de
 r. en tenu pariest homage. Desqe les choses soient amendeas, e a dre- B
 ftees si com il est de susdit. E ceus qe a feirte lui furent tenuz e
 furent desies deuant lavantdite bataille si lui referont feaute de no-
 vel en meimes la manere qe il est dit des homages. Derechef Mun-
 fir Edward avera sa mesnee e ses consailers de genz de la tere qe ne
 soient mie suspecenus, e ceo par acord dil avantdit consaile nostre
 Seignor le Roi, e si il autrement le face qe il en corge le peine de-
 fuzdite, qe tuz ceus de la tere soient contre lui pur lui grever a
 tot leur poeer si com il est dist des articles desusditz. E si nul C
 demorast en son seruisse saunz lur acord, soit grevement puny par la-
 gard de meimes ceu consail nostre Seignor le Roi. Derechef qe no-
 stre Seignor le Roi ne Munfir Edward ne a treent mie genz aliens
 en la tere si ce ne soit par acord du consail le Roi e des autres *pro-*
des homes de la tere derechef qe munfir Edward pur la pes de la te-
 re meeuz afermer de murge en Engleterre e nomement la ou le bref
 le Roy curt en le tere saunz issir desqe la pasqe qe vent en trois
 aunz si ceo ne soit par acord des prelaz e des *hauz homes* de la te- D
 re e de lavandit conseil nostre Seignor le Roi. E si mis aliens ven-
 gent desorenavant en la tere saunz acord del avantdit consail no-
 stre Seignor le Roi e des autres *prodes homes* de la tere qe il lur soit
 apertement musaunt e si issint ne la face ou si il is fors de Angle-
 tere e nomement de la ou le bref le Roi curt en Engleterre saunz le
 acord du consail e des *prodes homes* desusditz, qe totes ses teres Seig-
 nories dignitez e honeurs qe il ad ou aver porra par nun de heri- E
 tage, ou en autre maniere soient encorues e qe il e ses heirs soient
 desheritees desavantdites choses a tuz jurs. Issi qe en celes teres
 ne en autres choses desusdites ne puisse chalenger nule manere de
 droit del ore qe il vendra apertement contre sa promesse avantdite.
 Derechef pur ceste chose meuz garder les *chasteus* nostre Seignor le
 Roy e de munfir Edward qe sunt en meinz de gent sospecenus, en
 queque lui qe iceus Chasteus soient, soient baillez par acord de la
 avantdit consail nostre Seignor le Roy a autres qe bien e learmment F
 les gardent a leus nostre Seignor le Roy e de munfir Edward e a
 sinuate de la tere. Estre ceo nostre Seignor le Roi e Munfir Ed-
 ward feront ces choses avantdites asseurer si com leu purra meuz
 deviser par Ireland par Gascoigne par le Roi de Eschoce e par to-
 tes les teres fugeites au Roi de Engleterre. Estre ceo nostre Seignor
 le Roi e Munfir Edward unt promis e jure qe il aideront a porluire
 le apeus qe sont fet par les prelaz Contes e Barons e le *comune* de la
 tere

tere de certains gres qe feet; lur sont e a defendre la tere e la pes de la tere contre toz iceus qe mire ou male ou damage querré la voudront e a grever a tut leur poer tuz iceus qe encontre la pes de la tere se tendront. Estre ceo Munfir Edward en promptera de nostre Seignor le Roi Cink de ses chasteus des queus les prodés homes de la tere se tendront a paez les queus ibandraen *ostage* pur lui desq a Cink ans qe il tendra les choses desusditees Ossi qe le Roi ne Munfir Edward in entrerens dedenz ceu tens E ceo jurront par comancement le Roi les Gardeins qe issent mis E soit purveu renable sustenaunce des deners le Roi as Gardeins de ces chasteus par quoi ils pussent estre sauvement garde desqan terme avantdit. E sil avenist qe eus les lessassent encoure si enface lem ceo qe semblera a fere par la agard del avantdit conseil nostre Seignor le Roi e des prelaz e des *hauz homes* de la tere e au definement du terme avantdit si la pes soit bien garde, ices Cink chasteus soient baillez par lavantdit conseil nostre Seignor le Roi a bone gent qe bien e leaument les gardent a leus nostre Seignor le Roy e de ces heirs e a savuete de la tere. Estre ceo nostre Seignor le Roi e Munfir Edward e les *hauz homes* e le *comun* de la tere se sont mis en la jurisdiction des prelaz e oterrie qe il escomengent tuz iceus qe contra les choses desusdites ou la pes de la tere vendront ou mettront poine de venir E unt renuncie nostre Seignor le Roi e Munfir Edward e tuz communouement a totes maneres de privileges porchaciez ou apurchacer. E qe du serment avantdit absolucion ne purchacerent ne procuront ne purchase par autre ne receveront ne useront mesqe le Apostoile lenvoiaist par sa auctorite demaine. Estre ceo acorde est qe sauue totes les choses desus escriptes tuz les autres ordenemenz e articles qe furent purveu devant cest ore par le Roi e son conseil e les *hauz homes* de la tere les queus sont al honeur de deu e de seinte Eglise a la foi le Roi e au pru du reaume soient fermement tenuz. E totes les avantdites choses leaument a fere e a tenir unt jure nostre Seignur le Roi e munfir Edward son finz sus les Seintes ewangel. Estre ce munfir Edward vaudra al Conte de Leycestr. en fie le chastel de Cestre e la vile, e la Contee oue totes les apertenaunces e le Neschastel sur Lime oue les apartenances e le chastel du *pek* oue les apartenances si com il les tint e tenir deust sanz nul retenement pur autres terres qe le Conte lui baudra en fie a la value des teres qil tient dautrepart, e des autres teres qe le Conte tient en Engleterre en divers lius linfra la value au plus pres du Conte de Cestre qil poet. E a baille munseur Edward al avantdit Conte le Chastel de Bristend oue la vile e les apartenances a tenir en sa meine en tenance desqe ces choses soient feses Issi qil respoine des renables isseues sauue ceo qil mettra renablement en lagarde e en la sostenaunce du chastel. E ceste chose se doit fere denz un an. E si les choses soient fetes entre Munfir Edward e le Conte de deuz ceu tens le Conte rendra a Munfir Edward le Chastell e la vile oue les apartenance e a donk baudra munfir Edward le chastel en ostage par acord du conseil le Roi e des bone gent de la tere desqa a cinck anz en meimes la forme com il est dit des autres cink casteus qil enprompte du Roi. Sauue Chescun droit e nomement le Chaleng le Conte de Gloucestr. en droit du chastel de Brestead e la vile oue les apartenances. issi qe par le reison del hostage ne soit le Conte de Gloucestr. aloine ne destorbe de sa droiture quant al en vodra parler. En teumoine de ces choses nostre Seignor le Roi e munfir Edward sun finz munfir Henri finz le

*The Earl of
Leicester gets
the Castle and
County of Che-
ster, &c. from
the Kings Son.*

le Roi de Alemaine e a leur requeste en groinor teumain les honora-
 bles peres par la grace dieu Henry de Londr, Wauter de Wirecestr.
 Joan de Wincestr. Robert de Durem, Hug' de Ely, Gaut de Saresbir.
 Roger de Coventr. e de Lichefeud, Esteuene de Cicestr. Wauter de
 Ba. Guilliam de Landaf Evesques, frere Roger de Veer Prior de
 Hospital de Jerusalem en Engleterre, frere Ambolard Mestre de la
 Cheivalerie du Temple en Engleterre le Maire e la Comun de Lon-
 dres unt mis lur seaus a cest escrit qe fu fet ottreic e acorde en la
 forme desusdite a Westmon. au parlement de Londres le utime jur
 de mois de marc. lan del incarnation nostre Seignor MCCLX quart.
 cest asaver le Mecredy la veille seint Gregor. lan del Incarnation
 desusdit.

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Pat. 35 E. 1. m. 45.

R Ex Militibus liberis hominibus et toti Communitati Comitatus Middlesex tam infra libertates quam extra, Salutem. Cum Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, Milites, liberi homines ac *Communitates* Comitatum regni nostri *tricesimam* omnium bonorum suorum temporalium mobilium *Civēsq;* et *Burgenses* ac *Communitates* omnium *Civitatum*, et *Burgorum* ejusdem regni, necnon Tenentes de *Dominiciis* nostris *viceſimam* bonorum suorum mobilium Exceptis hiis que alias in hujusmodi concessione subsidii excipi consueverunt, nobis curialiter concesserint et gratanter, per quod nos nuper ut *viceſima* et *tricesima* predictæ ad minus dampnum et gravamen populi dicti regni nostri levantur et colligantur providere volentes assignavimus dilectos et fideles nostros Richardum de Windesore et Simonem de Kensington vel alterum eorum quotiens ambo insimul interesse non possent una cum quodam Clerico quem ad hoc duxissent eligendum et pro quo respondere voluissent ad *tricesimam* et *viceſimam* predictas in Comitatu predicto tam infra libertates quam extra assidendas et taxandas juxta formam ipsis inde ex parte nostra liberatam et ad pecuniam de predictis *tricesima* et *viceſima* proveniente colligendam et levandam et ad Scacarium nostrum certis terminis liberandam, videlicet, in crastino Purificationis Beate Marie proximo futuro et in Octabis Sancte Trinitatis proximo sequentibus et similiter in crastino Animarum ex hinc proximo sequenti pro equalibus portionibus sine dilatione ulteriori. Ac idem Simon quibusdam de causis ad premissa facienda et explenda intendere non possit loco ejusdem Simonis assignavimus dilectum et fidelem nostrum Willielmum de Pountz ad omnia premissa una cum prefato Richardo facienda et explenda in forma predicta. Et ideo vobis mandamus quod prefato Willielmo loco predicti Simonis in premissis omnibus et singulis sitis intendentes et respondentes consulentes et auxiliantes in forma predicta et prout ipse vobis scire faciet ex parte nostra. In cujus, &c. Teste Rege apud Lavertoft primo die Decembris.

Per ipsum Regem.

De 30^{ma} &
20^{ma} assiden-
dis in Comita-
tu Middlesex.

Record 7.

Fi-

Fines 20. E. 3. m. 7.

De auxilio ad
primogenitum
filium Regis
Militem faci-
endum levando.

Record 8.

Rex dilectis et fidelibus suis Vicecomiti Wygornie Thome le Botilten de Upton super Sabrinam Militi et Thome Cassy de Wynch Salutem. Sciatis quod cum in *pleno parlamento* nostro apud Westmonasterium ad diem Lune proximo post festum Nativitatis Beate Marie Virginis proximo preteritum tento Prelati Comites Barones et ceteri Magnates de regno nostro Anglie tam absentes extra idem regnum nobiscum existentes per suas litteras in eodem Parlamento lectas et in rotulo ejusdem parlamenti irrotulatas quam presentes in eodem parlamento viva voce concorditer pro se et tota *Communitate* ejusdem regni nobis concesserint quadraginta solidos de singulis *feodis Militum* in dicto regno nostro Anglie in auxilium ad primogenitum filium nostrum Militem faciendum levandos sicut hujusmodi auxilium alias in casu consimili progenitoribus nostris concessum levare consuevit. Assignavimus vos et duos vestrorum ad predictum auxilium quadraginta solidorum de singulis feodis Militum et juxta ratam quadraginta solidorum de partibus feodorum hujusmodi infra Comitatum predictum infra libertates et extra tam de feodis que de nobis tenentur quam de aliis quibuscumq; ad opus nostrum levandum et colligendum. Ita quod omnes denarios de auxilio predicto provenientes habeatis ad Scacarium nostrum in Quindena Sancti Hillarii proximo futura illi vel illis cui vel quibus eisdem denarios liberari mandaverimus liberandos. Et ideo vobis mandamus quod habita deliberatione plenaria super *feodis et partibus feodorum* predictis in Comitatu predicto infra libertates et extra tam per rotulos de consimili auxilio tempore Domini Edwardi quondam Regis Anglie Avi nostri de hujusmodi feodis levato quos ad majorem evidentiam de *feodis et partibus feodorum* predictis habendam vobis mittimus sub pede sigilli nostri quam per Inquisitiones inde distincte et aperte quociens opus fuerit capiendas et aliis viis et modis legitimis quibus pro acceleratione premissorum vobis videbitur expedire ad auxilium predictum in dicto Comitatu levandum et colligendum &c. In cujus, &c. Teste Custode apud Turrim London primo die Novembris

Per ipsum Regem ac Custodem et
Consilium.

Claus.

Claus. 7. H. 3. M. 10. Dors.

Brevia Summonitionum.

Vicecomiti Canc' Salutem. Precipimus tibi quod sine dilatione summoneri facias per totam Ballivam tuam *Archiepiscopos Episcopos Abbates Priores Comites Barones Milites et libere tenentes et omnes alios qui servitium nobis debent sive servitium Militare vel Serjantie* quodq; similiter clamari facias per totam baillivam quod sint apud *Wigorniam* in crastino Sancte Trinitatis anno regni nostri septimo, omni dilatione & occasione postpositis cum toto hujusmodi *servitio* quod nobis debent, parati cum *equis & Armis* ad eundem in *servitium* nostrum quo eis preceperimus. T. H. &c. apud Westmonasterium 25 die Maii.

Record 9.

Eodem modo Scribitur omnibus Vicecomitibus Anglie.

Po-

Postea mutata fuit hec forma in hanc formam.

Forma vic'.

Record 10.

REX Vicecomiti Bedd' & Bucks Salutem. Quia summonitionem factam Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus, libere tenentibus et aliis quide nobis tenent in Capite per *servitium Militare* vel *Serjantie* veniendi in *servitium* nostrum cum *equis & Armis* apud *Wigorniam* in crastino Sancte Trinitatis prolongavimus de Consilio *fidelium* nostrorum usq; in quindecim dies a die Nativitatis Sancti Johannis Baptiste anno regni nostri septimo. Tibi Precipimus quatinus eos omnes per totam *Baillivam* tuam sine dilatione summoneri facias & clamari quod omni dilatione & occasione postpositis sint ad nos cum *equis & Armis* sicut prius summoniti fuerunt. Teste Rege apud Westmonasterium 26^o die Maii.

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Claus. 49. H. 3.
M. 4. Dorf.

Record 11.

This Writ was
all Dictated by
Montfort.* So he was
forced to call
his best Sub-
jects, when he
was Montforts
prisoner.

REX Johanni Eynill Salutem, &c. Setting forth that Prince Edward had made his escape on Thursday in *Whitsun-week* in the evening from his Guard with two Knights and four Esquires or Scutifers which with him had contrived his Escape, and was gone to *John de Warren* and *William de Valentia*, who without the Kings privity and Will (as is here said) joyned themselves with certain * *Rebell-Barons Marchers* in *Pembrokeshire*, where they intended to joyn with Strangers from beyond Sea. That he should upon sight of these Letters come to the King cum *Equis & Armis* & *toto servitio & posse suo, omni festinatione, Die & Nocte*, to go against the Kings enemies as he loved his own life. T. R. apud Hereford. 30 die Maii.

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D

Eodem modo scribitur omnibus *tenentibus in Capite*, tam *Episcopis* *Abbatibus*, *Prioribus*, quam *Comitibus*, *Baronibus*, *Militibus*, & *omnibus aliis, exceptis illis, qui sunt pro parte Comitis Glocestrie.*

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Rot.

Claus. 4. Hen. 3. m. 5. Dors.

REX vicecomiti Northamtonie Salutem. Scias quod pro magna necessitate nostra & ingentissima debitorum nostrorum instantia nec non & pro conservatione terre nostre Pictaviensis concesserunt nobis sui gratia communiter omnes *Magnates & fideles* totius regni nostri donum nobis faciendum scilicet de qualibet caruca sicut juncta fuit Crastino beati Johannis Baptiste proximo preterito anno regni nostri quarto *duos solidos* per manum tuam & duorum de legalioribus Militibus Comitatus tui colligendos qui de voluntate & consilio *omnium de Comitatu* in pleno Comitatu eligentur ad hoc faciendum. Et ideo tibi precipimus firmiter & districte injungentes quatinus convocato Comitatu tuo pleno de voluntate & Consilio eorum de Comitatu eligi facias duos de legalioribus Militibus totius Comitatus, qui melius sciant velint & possint huic negotio ad commodum nostrum intendere. Et illis tecum assumptis statim donum illud per totam Baillivam tuam facias assideri & colligi de singulis carucis sicut predictum est. Exceptis Dominicis *Archiepiscoporum Episcoporum & Rusticorum suorum* & exceptis Dominicis ordinis Cisterciensis & de Premustr. Et videas quod districte & aperte scias nobis respondere in Crastino Sancti Michaelis proximo instantis apud Londinum, quot fuerint in Balliva tua Caruce de quibus donum illud habere debeamus. Et Denarios inde provenientes per manus predictorum duorum Militum & tuam salvo colligi facias venire usq; Londoniam predicto die sub sigillo tuo & sigillis predictorum duorum Militum in Domo Novi Templi salvo reponi donec provi sum fuerit quid fieri debeat. Et tu sicut te ipsum & omnia tua diligis sic inde te intromittas ne occasione malefacte inquisitionis & Collectionis per te & predictos Milites sicut oporteat nos postea distric tam facere inquisitionem per fideles a Curia nostra missos ad gravem Confusionem tuam & illorum qui tecum interfuerint predictae Inquisitioni & Collectioni faciende. Teste Henrico, &c. apud Oxonium 9 die Augusti.

Record 12.

Eodem modo scribitur omnibus vicecomitibus Anglie.

Pat. 15. H. 3 m. 3.

De Immuni-
tate Prelato-
rum Angl.

Record 13.

REX omnibus &c. Salutem. Cum peteremus a *Prelatis* Anglie quod nobis auxilium facerent pro magna necessitate nostra de qua eis constabat, videlicet, *Episcopis, Abbatibus, Abbatissis, Prioribus, & Priorissis* qui de nobis *tenent* in *Capite* ipsi nobis liberaliter concesserunt *auxilium* tale scilicet de singulis feodis Militum suorum 40 s. de tot feodis de quot ipsi tenentur nobis respondere quando faciunt nobis *servicium Militare*. Et nos *concessimus* eisdem *Prelatis* quod ad predictum *auxilium* nobis faciendum habeant de singulis feodis Militum quæ de eis tenentur 40 s. Nos igitur nolentes quod ex hac eorum concessione nobis facta de mera liberalitate sua & non alia ratione Ecclesiis suis vel eis vel eorum Successoribus possit prejudicium aliquod gravari vel Ecclesiastice libertati in aliquo derogari, per has literas nostras Patentes hoc duximus protestandum. Nolumus etiam quod propter hanc protestationem nostram quam fecimus aliquid nobis vel heredibus nostris accrescat vel decrescat. In cujus, &c. T. R. apud Westmonasterium 14 die Aprilis, Anno regni nostri 15. Has literas habeant singuli Prelati tam Episcopi quam Abbates Priores Abbisse & Priorisse.

Claus.

Claus. 19. H. 3. M. 6. Dorso.

Record 14.

REX vicecomiti Somersæt Salutem. Scias quod *Comites & Barones, & omnes alii* de toto regno nostro Angliæ, spontanea voluntate sua, & sine Consuet. Concesserunt nobis *Efficax Auxilium* ad magna negotia nostra expedienda. Unde provisum est de Consilio illorum quod habeamus de singulis Feodis Militum que de nobis *tenent in Capite & de Wardis*, tam de *novo Feoffamento* quam de *veteri*, *duas Marcas* ad *Auxilium* prædictum nobis faciendum, unde providerunt reddere nobis unam Medietatem ad festum Sancti Michaelis Anno decimo nono, & aliam Medietatem ad Pascha, anno &c. 20. Providerunt etiam, quod prædictum *Scutagium* colligatur per Manus Ballivorum suorum in singulis Comitatus, & tradatur per Manus eorundem, Duobus *Militibus*, Quos ad hoc assignavimus in singulis Comitatus deferend. ad Scaccarium nostrum Lond. ad liberand. ibidem Thesaurario & Camerariis nostris, & ideo tibi Precipimus quod ad mandatum omnium Comitatus & Baronum & omnium aliorum, Qui de nobis *tenent in Capite* in Balliva prædicta modo prædicto sine Dilatione Distringas omnes *Milites & Libere Tenentes* qui de eis Tenent per *Servicium Militare* in Balliva tua ad reddendum Ballivis suis de singulis *Feodis & Wardis* duas Marcas ad prædictum *Auxilium* nobis faciendum in Terminis prædictis, & liberandum Johanni de Aure, & Hen. de Meriet quos ad hoc assignavimus in Comitatu tuo sicut prædictum est, &c. Teste Meipso apud Westmonasterium xvii Julii, Anno, &c. XIX.

F 2

Claus.

Claus. 19. H. 3. M. 8. Dors.

ccord 15.

REX Vicecomiti Suffex Salutem. Scias quod *Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, & omnes alii* de Regno nostro Angliæ, qui de nobis *Tenant* in *Capite* Spontanea voluntate sua & sine Cōsuetudine concesserunt nobis efficax *Auxilium* ad magna negotia nostra expedienda. Unde provisum est de consilio illorum, Quod habeamus de singulis *feodis* Militum & Wardis, que de nobis *Tenant* in *Capite* *duas Marcas*, ad predictum *Auxilium* nobis faciendum, & unde providerint reddere nobis unam Medietatem ante Festum Sancti Michaelis, Anno Regni nostri 19. & aliam Medietatem ad Pasche Anno Regni nostri 20. Ideo tibi precipimus quod ad mandatum venerabilis Patris R. Cicestrensis Episcopi Cancellarii nostri sine Dilatione Distringas omnes *Milites & libere Tenentes*, qui de eo *Tenant* per *Servitium Militare* in Balliva tua ad reddendum ei de singulis *feodis & Wardis* duas Marcas ad predictum *Auxilium* nobis per manum suam reddendum in Terminis prædictis.

Sic Scribitur pro aliis *Episcopis, Abbatibus, Prioribus, & Magnatibus*.

Pat. 9 Hen. 3. M. 7. Dorso.

Record 16.

REX Willielmo Basset Radulpho de Crumbwell Willielmo de *Vernun*, Thome Tuschet, Henrico de Derlegham Canonico Suwell, & Roberto de Lee *Clericis*, Salutem. Assignavimus vos *Iusticiarios* nostros ad *quintam decimam* omnium mobilium assidendam & Colligendam ad opus nostrum in Comitatibus Notingham & Dereby in hac forma. Vicecomes noster Notingham & Dereby coram vobis venire faciet *omnes Milites* Comitatum suorum die Dominica proximo ante mediam Quadragesimam apud Notingham ad quem diem eligi facietis quatuor legales Milites de singulis Hundredis vel Wapentacis vel plures vel pauciores secundum magnitudinem Hundredorum vel Wapentaciorum ituros per singulos hundredos vel Wapentachas ad assidendam & colligendam quintam decimam omnium mobilium predictorum, &c.

Rot.

Rot. Claus. 7. H. 3. M. 23. dorso.

Record 17.

Rex Vicomiti Kancia Salutem. Scias quod exigente necessitate terre Sancte de novo provisum est & concessum coram nobis & consilio nostro presentibus Archiepiscopo Cantuariensi, Episcopis, Comitibus, Baronibus, & Magnatibus nostris, de communi omnium voluntate quod quilibet comes conferat Domino Regi Jerusalem in auxilium terre predictae iii marcas *Baro* i marcam *Miles* xii denarios quilibet terram excolens i denarium & quilibet qui terram non habet Catalla habens ad Valentiam dimidia marca tam infra Civitates & Burgos quam extra. Similiter i denarium & quicumque de predictis plus dare voluerit det in nomine Domini exceptis omnibus illis qui solummodo de domibus religionis vel personis Ecclesiasticis tenent. Debet autem hec collecta assideri in qualibet villa infra festum beati Thome Apostoli Anno &c. Septimo per duos probos & legales homines & *servientem* ejusdem ville vel *servientes* si plures fuerint *Domini* in eadem villa & colligi infra festum Sancti Hillarii anno eodem per eosdem & reponi per singulos Comites in domo Templi vel Hospitii si in Comitatu illo domus Templi non fuerit de qualibet villa in Sacco per se cum summa ejusdem pecunie scripta intus in eodem Sacco & exterius super Saccum Sigillatum cum nomine ejusdem ville debet etiam deferri Londoniam infra xv. dies a festo Sancti Hillarii anno predicto per Templar. vel Hospital. Domus ubi fuerit reposita & Vicecomes ejusdem Comitatus dabit auxilium & saluum conductum ad predictam pecuniam deferendam usque London que ibi reponetur in domo novi Templi per visum illorum quos Mag-nates nostri ad hoc assignaverunt ut possint scire quid & quantum de terra cujuslibet exierit & summam auxilii totius regni nostri. Et ideo tibi precipimus quatinus collectam illam in Balliva tua assideri colligi & conducere facias usque London sicut predictum est & ita diligenter te intromittas quod negotium illud pro defectu tui non remaneat infectum Set potius diligentiam ex hoc multipliciter habeamus commendatam. Debet etiam hec collecta Civitatum & Burgorum in Balliva tua fieri infra quod eis scribimus & reponi in domibus religionis quas alias eis fecimus nominari per literas nostras ad quam deferendam usque London facias auxilium & conductum sicut facere debes ad illam quam alibi per Comitatum tuum colligi facias & si necesse fuerit ad denarios illos assidendos & colligendos districtiones facias sicut videris expedire ad hoc preceptum nostrum predicto modo complendum. Teste H. &c. apud Westmonasterium vicesimo quarto die Novembris.

Eodem modo scribitur omnibus Vicecomitibus Anglie.

Rot.

*The Declaration, Ordinance, or Statute of the
Succession to the Crown of Scotland, made at
Scone on the 4th of April, in the third
Year of King Robert the Second, Anno Dom.*

1373.

Record 18.

* They are the
words of the
Transcript.

IN Dei nomine Amen Anno ab incarnatione ejusdem Milesimo trecentesimo septuagesimo tertio et Regni Regis Roberti Secundi Anno tertio, Mensis Aprilis die Quarto, prefatus Rex Robertus Secundus in Parlamento suo apud Sconam, Ac cupiens incertitudinem Successionis in plerisq; * Regnis, et * partibus contingentem retroactis Temporibus vitare pro posse, Et ei pro se et suis maxime futuris temporibus obviare, Ex Deliberato C nilio et cum Consensu et assensu Prelatorum Comitum & Baronum, Ceterorumq; Procerum & Nobilium, ac omnium Aliorum, De tribus statibus sive Comunitatibus totius Regni Congregatorum ibidem, Declaravit, Ordinavit & Statuit, Quod filii ipsius Regis ex sua prima & Secunda Uxoribus nunc geniti, et eorum heredes, successive succedent ipsi Regi in Regnum, et in Jus regnandi per modum infra Scriptum, et sub forma, et Conditionibus infra Scriptis. Videlicet Quod Dominus Johannes primogenitus ipsius Regis Comes de Carricke ac Seneschallus Scotiae pro cuius successionis Jure in Parlamento immediate praecedenti plene fuerat Declaratum et heredes sui post mortem ipsius sibi in regnum, et in Jus Regnandi succedent, Ac ipsis Domino Johane et heredibus Deficientibus forsitan, Quod absit, Dominus Robertus Comes de Fife, et de Monteith filius ipsius Domini Regis ex prima Uxore secundogenitus et haeredes sui in Regnum et in Jus Regnandi successive et immediate succedent, et ipsis Domino Roberto, et haeredibus suis hujusmodi, Deficientibus etiam fortasse, quod absit, Dominus Alexander Dominus de Badenoch filius ipsius Domini Regis ex eadem uxore tertio Genitus, et heredes sui tantum in Regnum, et in jus Regnandi, post mortem ipsorum simili modo successive et immediate succedent Iphis vero Domino Alexandro et heredibus suis praefatis, similiter forsitan Quod absit, Deficientibus, Dominus David Comes de Strathern filius ipsius Domini Regis ex secunda uxore genitus, et haeredes sui eisdem sic Deficientibus, Ex toto integrum et in jus Regnandi similiter successive et immediate succedent; Ipso vero David et haeredibus suis predictis similiter forte Deficientibus, Walterus filius ipsius Domini Regis frater germanus ipsius Domini David et haeredes ipsius in Regnum et in Jus Regni simili modo succedent. Praedictis autem quinque fratribus et eorum haeredibus ab ipsis Descendentibus Deficientibus forsitan similiter et ex toto, Quod absit, veri et legitimi haeredes de sanguine et parentela Regali, Ex tunc in Regnum et in Jus Regnandi succedent. Quibus sic Statutis, Ordinatis, Declaratis, et actis, omnes Prelati Comites et Barones ac omnes de tribus statibus sive Comunitatibus totius Regni in

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in ipso parlamento ibidem propter hæc et Alia Congregati, *prefatas Declarationem, Ordinationem, & Statutum*, Ratificaverunt et approbaverunt pro se et suis hæredibus perpetuis et futuris temporibus Duraturis. Et Nihilominus infrascripti videlicet *prelati* Domini Willielmus Sancti Andreæ; Michael Dunkelden; Alexander Aberdonen; Patricius Brechanen: Alexander Muravien: Andreas Dumblanen: Alexander Rossen: et Malcolmus Catenen: Ecclesiarum Episcopi præsentibus, et Apertis sacrosanctis Dei Evangeliiis, ac infra-scripti *Comites, Barones et Nobiles*, Primo videlicet ipsi filii Regis seniores, et provectæ ætatis Domini, Scilt *Johanes Robertus, Alexander*, necnon Dominus Willielmus de Douglassæ Georgius de Dunbar Marchiæ, Johanes de Dunbar Moraviæ, *Comites* Thomas de Haya *Constabularius* Scotiæ, Dominus Willielmus de Keith Marefcallus Scotiæ, Jacobus de Lindsey, Dominus de Crawford, Archibaldus de Douglas Dominus Galvidiæ, Jacobus Douglas Dominus de Dalkeith, Robertus de Erskine, Hugo de Eglintonne, Duncanus de Wallays, David de Graham, Walterus de Halyburtonne Willielmus de Dishingtoune, Alanus de Erskin, Alanus de Jacobus de Frazer, Alexander Frazer, Robertus *Senechallus* de Innermaith, Rogerus de Mortuo Mari, David filius Walteri, Patricius de Grahame, Andreas de Vallibus, Johanes Wallays, Johanes Maxwell, Andreas Campbell, Willielmus de Cunningham filius, et Johanes Strachawhm *Milites*, *Johanes* Kennedy, et Alexander de Cockburn, *Scutiferi*, eisdem sacrosanctis Evangeliiis, et eorum quilibet manu-tactis Corporaliter Juraverunt, Quod prefatas *Declarationes*, Ordinationes, et Satuta pro se et pro eorum hæredibus inviolabiliter Observabunt et ab aliis pro viribus perpetuo facient observari. Consequenter vero et immediate, Tota Multitudine *Cleri & Populi* in Ecclesia de Scona ante Magnum Altare propter hoc specialiter Convocata, Ac prefata Declaratione, Ordinatione, et Statuto sic Juratis alta et publica Voce, eis Expositis, Quilibet levata Manu per Modum fidei-Dationis in Signum universalis Consensus Totius *Cleri & populi* exprimebat et manifestabat publicè suum consensum pariter et Assensum. In Quorum omnium Testimonium prefatus Dominus Rex presenti Scripto sive Instrumento, suum magnum precepit apponi Sigillum, et Ad majorem Evidentiam, et Securitatem plenioram, Omnes *Episcopi, Comites, Barones, & Nobiles* supradicti eidem Instrumento sua Sigilla fecerunt apponi, Gratia Testimonii et ad perpetuam memoriam futurorum: Acta fuerunt Hæc apud Sconam in pleno Parlamento Domini Regis, predictis Anno, Mense, et Die superius annotatis.

The Three Estates mentioned in this Act of Parliament, were the Bishops, and Clergy first, the Earls and Barons, comprehending all the Barons great and small, were the second Estate, and they all sate together as Tenents *in Capite*, and as the Commissioners for Shires sit with the Barons at this Day for the same reason. But then there were no Commissioners, and all the small Barons came in their own Persons. The Third Estate was the *Burgesses*, of the King's *Burghs*, which held of him *in Capite*.

In

Statut. Rob. 2.
f. 59. a.

Ibid. f. 62, b.

In the Statutes made at *Scone* in the second year of this King *Robert* the Second, the second of *May*, 1372. These three Estates and no others, c. 17. § 3, 4. swear to observe the Laws then made, and to own *John* Earl of *Carrick* (afterwards King *Robert* the Third) in his Lieutenancy, and as Governor of the Kingdom under his Father. *Omnes & singuli Prelati, Prelatorum procuratores, & alii de Clero; Comites, Barones, & Burgenses, Jura-menta sua Tacitis Eu-angeliis, personaliter prestiterunt, &c.* here were no Commissioners for Shires, they came in afterwards to Represent the small Barons by a Law made in the seventh Parliament of King *James* the First, A. D. 1420, about Fifty years afterwards. See Answer to Mr. *Petyt*, f. 96, 97, 98, 99, 100. And further, that the Burghs make the Third Estate; See Present State of *Scotland*, p. 77, 78.

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A Series

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F

A series of Parlements and great Councils in the time of the Saxons before the Conquest, and such as were holden in Normandy before, and after that time, and also of such as were holden in England unto the end of the Reign of Hen. 3d.

Saxon Councils.

Add these to the Saxon Councils mentioned in the Answer to Mr. Petyt f. 8 D. & f. 9.

A Nno Dominicæ Incarnationis 822 de diversis Saxonie partibus congregatum est Synodale concilium in loco præclaro qui nominatur Clovelho præsidente huic venerabili Concilio Beornulpho Rege Mercio: & Wulfredo Archiepiscopo cæterisq; Episcopis & Abbatibus, omniumq; dignitatum optimatibus dignitatum Ecclesiasticarum scilicet & secularium personarum.

Spelm. Concil. vol. 1. f. 332. cap. 1. A. D. 822.

Anno Dominicæ Incarnationis 838. Congregatum est Concilium in loco famoso nomine Kingston præsidente eodem Concilio Egberto Rege & filio ejus Athelwulpho; Ceolnotho quoq; Archiepiscopo cum cæteris Episcopis Angliæ & Optimatibus.

Ibid. fol. 340. A. D. 838.

King Edgar granted his Charter of Priviledges to Glastonbury Abby, communi Consilio omnium Præmatum suorum and in the close of that Charter tis said hanc Privilegii paginam Rex Edgarus apud Lundoniam communi Consilio Optimatum confirmavit.

Monast. Angl. vol. 1. fol. 17. col. 1. n. 10. 40. A. D. 971.

Consilio jussuq; Regis Anglorum Æthelredi, Procerumq; suorum de tota Anglia Robustiores Lundon. Congregatæ sunt Naves, &c.

Flor. Wigorn. A. D. 992.

Æthelredus Procerumq; suorum Consilio ad Danos legatos misit, promittens tributum & stipendium ut a sua Crudelitate omnino desisterent, de tota vero Anglia Tributum quod erat 16000l. dependebatur.

Ibid. A. D. 994.

Rex Æthelredus suorum præmatum Concilio, & Classem & pedestrem congregavit exercitum.

Ibid. A. D. 999.

Rex Anglorum Æthelredus habito Consilio cum Regni sui Præmatibus, utile duxit a Danis dextras accipere, illisq; ut a malis cessarent, stipendium dare & placabile Tributum solvere nec diu post 24000l. illis persolvebantur.

Ibid. A. D. 1002.

Rex Anglorum Æthelredus Consilio Præmatum suorum nuncios ad Danos legans eis nunciare mandavit, quod sumptus & Tributum eo tenore illis dare vellet ut a Rapinis desisterent & Pacem cum eo firmam tenerent, & de tota Anglia Tributum quod erat 36000l. persolvebatur.

Ibid. A. D. 1007.

Æthelredus Rex Anglorum de 310 cassatis unam Triremem, de novem loricam et cassidem fieri per totam Angliam naves intente præcepit fabricari.

Ibid. A. D. 1008.

Rex Anglorum Æthelredus, & Regni sui Præmates ad Danos miserunt legatos, pacem ab eis petentes, stipendium & Tributum promittentes.

Ibid. A. D. 1011.

Ibid. A. D.
1012.

Omnes Angliæ Primateſ utriuſq; ordinis ante Paſcha Lundon. Congregati ſunt, & ibi tam diu morati ſunt, Quonſq; Tributum Daniſ promiſſum quod erat 48000l. perſolveretur.

Be Witena Gerædneſſan. Sapientum Decreta.

HÆ ſunt conſtitutiones quas tulerunt Angli eruditi eligerunt etiam & edixerunt inſtanter docuerunt obſervandas.

This is *Spelman's* Latin verſion, the Angli eruditi the Learned Engliſh and the Saxon Witen are explained and diſcovered what they were.

Æthelredi Ediſto concrepante Archipræſulumq; Ælſeariſ & Wuſtani hortatu inſtigante univerſi Anglorum Optimateſ, die Sancto Pentecoſtes, ad locum ab Indigeniſ Canham nominatum acciti ſunt convenire. In ſeveral periods in the * Firſt Chapter according to Sir Hen. *Spelman's* verſion there are theſe words, *Decernunt Sapienteſ*, and in c. 5. 6. 7. They made here many ſecular Laws about Obſervation of the Laws and Peace and Concord. c. 5. Of the Correſtion and amending falſe Money, of making a Standard for Weights and Meaſures. For Repairing of Towns, Bridges and Caſtles. c. 22. Naval Laws. c. 23. Of ſuch as withdrew themſelves from the Army. c. 23. Of Treason. c. 26. That the greateſt Men that offended ſhould be puniſhed more grievouſly. c. 32 Therefore this is a Compleat Parliamēt of thoſe times.

Speaking of the Diviſion of the Kingdom between *Edmund Ironſide*, and *Canutus*, tiſ ſaid, *firmata igitur taliter univerſi Angliæ Primateſ affenſum præbentibus, inter ſe conventione, primo poſt menſe Edmundus ex hac luce ſubtrahitur.*

Poſt mortem Edmundi, Rex Canutus, omnes Episcopos & Duces nec non & Principes cunctoſq; Optimateſ gentiſ Angliæ Lundoniæ congregari juſſit, Qui cum veniſſent ante eum, quaſi neſciens interrogavit eoſ ſagaciſſime Qui fuerunt teſtes inter eum & Edmundum, quando Conventionem amicitie & Diviſionem Regni inter ipſoſ geſſerunt, &c.

Anno Domini 1024 Canutus Rex Angliæ cum Conſilio & Decreto Archiepiſcoporum, Episcoporum et Optimum ſuorum expulit Clericoſ inhoneſte viventeſ ab Eccleſia Sancti Edmundi, et Monachos in illa conſtituit.

Ego Cnut Rex totiuſ Albionis cum Conſilio Archiepiſcoporum, Episcoporum, Abbatum, Comitum, omniumque aliorum meorum [] Fideſium elegi ſancieudum, ut Monasterium de Badriceſworde, &c. in a Charter of Priviledges to Bury Abby which was ſo called.*

[*] Theſe could not be all hiſ Subjectſ but only hiſ *Thegns* and feudal Nobility he here callſ *fideleſ*. This is called *plenum Parliamentum Dominorum Spiritualium & Temporalium* without mention of *Comons* or any other Perſonſ. Ibid. f. 290. Col. 2. n. 10. from the Regiſt. of the ſame Abby. f. 214.

*Spelman. Con-
cil vol. 1.
Concil Ænha-
men. General.
f. 513. Temp.
Ethelredi Re-
giſ. This
Council was
holden be-
tween the
year of our
Lord 1006 &
1013. Ibid. f.
510.
Ibid. f. 525. in
the old La in
verſion.
* Ibid. f. 513.
Witena Ge-
redneſſe iſ:
i. e. Sapien-
teſ Decer-
nunt: or the
Decree of the
Wiſemen
iſ, &c.*

*Lamb. Ar-
chaionum:
f. 150. ll E. 35.
Tit. Lex Nor.
&c. Hoved. f.
347. a. n. 20.
A. D. 1016.
Flor. Wigorn.
Anno eodem.
f. 618.*

** Mon. Angl.
vol. 1. f. 295.
Col. 1. n. 30.
Ex Regiſtro
Johannis La-
kingheath iſti-
uſ loci Mona-
chi.
Mon. Angl.
vol. 1. f. 287.
from Cart. 8.
Ed. 2. M. 5. n.
11. per. In-
ipeximus. vid.
Cart. 7. & 8.
Ric. 2. n. 11.*

Anno 1081, finitis placitis, calumniis, et Queremoniis, quas Ar-
fastus Episcopus, faciebat Baldwino Abbati, de Ecclesia Sancti Edmundi,
&c. die pridie Kal. Junii Apud Wintoniam coram Rege & Principibus
Terræ dedit Rex Willielmus Glorioso Regi & Martyri Eadmundo hoc
privilegium.

Ibid. f. 288.
n. 50. A. D.
1081.

A And in this Priviledge it is recited that Cnute, cum Comuni
Consilio Archiepiscoporum, Episcoporum, & Optimatum suorum,
(which explains the word *fideles*) did eject the disorderly Priests out
of Bury Abby, and place Monks there.

Ibid. f. 289.
n. 10. 20.

B Then after this he says, that after hearing both sides in this great
Council and Court, Placuit nobis Consilio Archiepiscoporum, Episco-
porum aliorumq; multorum nobis * fidelium, to Grant and Confirm,
&c. Here *fideles*, are the same with *Principes* mentioned in the
preamble to this Priviledge. Which hath the same Date with the
Preamble.

Ibid. n. 40. 50.
The Judges
acknowledg
this a Parlia-
ment in the
year Book, Ti-
tles Con-
tempt 21. Ed.
3. f. 60. n. 7.
* That theie
fideles were
Earls and Ba-
rons see the
year Book in
Temps de W.
Conqueror a
son Parle-
ment, a cert
jour tenu, fut
ordone par le
Roy & par le
Arch Evesque,
de Canturb.
& par tous les
autres evesques
de la terre
& Counts
Barons que a
quel heure de
cel &c. Ibid. j
Ibid. Col. 2.
n. 40.

Data pridie Kal. Junii, 1081. Actum Wintoniæ.

Norman Councils holden in Normandy.

Neustria pia f.
2 c. Anno
Dom. 996.

Dux inclytus Richardus senio fatigatus, dum ingravescente molestia extremam imminere cognosceret horam, Ducatus sui cunctis congregatis Proceribus, Richardum filium suum vocavit, rerumq; suarum omnium hæredem & Successorem constituit.

A

Ibid. f. 214.

Richardus secundus totius Normanniæ Episcopos et viros Nobiles festinus Fiscannium Convocavit et Fiscannensem Sanctæ Trinitatis Ecclesiam ab omni Episcoporum Jugo et consuetudine justa vel injusta eripuit et liberavit.

B

Grand. Cu-
stum. f. 1. a
proximie pri-
mo.

The Customary of Normandy written or Establihed, par le Conseil des Prelates et des Barons et des aultres saiges homes.

f. 2. b. Col. 1.

In the Comment on the second Prologue, la coustume fut compile a une fois par le Duc, par les Countes, Barons, et Prelates, &c.

Ibid. Col. 2

Et ausi met le text que les Princes de Normendie les loix et Establisments Establirent par le Conseil des Contes Barons Prelates, &c. par quoi il appert clerement quils nen sont pas facteurs, mais Counsellors seulement.

C

Grand. Cu-
stum C. 113.
De brief De-
stable.

The Duke of Normandy having Jurisdiction over the Body's of great and small, because bound to him by Fealty and Allegiance, willing to restrain the Malice of the mighty and puissant, Establihed two Laws of Recognition by advice of his Prelats and Barons, par le Conseil des Prelates et Barons.

D

Monast. Angl.
vol. 2. f. 960.
col. 1. n. 60.
col. 2. n. 20.
Circa A. D.
1042.
*Ibid. Col. 1.
lin. 4.

Ego Aluredus Gigas in presentia Domini mei Willielmi Comititis, ac omnium Procerum ejus, dedi Deo et S. Vigori, &c. which Duke William confirms in these words, Ego Willermus Normannorum Dux, mea auctoritate coram Episcopis et Baronibus meis confirmo, &c. This was a Norman great Council or Parliament, and was about the year * 1042.

Neustria pia.
f. 168. A. D.
1074.

William the Conqueror made Peace and Concord between the Monastery of St. Wandril, and the Earl of Eurenx, cum Consilio Principum suorum.

E

Ord. Vit. f.
552. A. Anno
Domini 1080.

Anno Domini 1080 Rex Gulielmus in Festo Pentecostes apud Illebonam resedit ibiq; Gulielmum Archiepiscopum, et omnes Episcopos, et Abbates Comitesq; cum alijs Proceribus Normanniæ simul adesse præcepit; ut Rex jussit factum est igitur celebre Concilium apud Jullam-bonam celebratum est; et de statu Ecclesiæ Dei totiusq; Regni, providente Rege cum Baronum suorum Concilio utiliter tractatum est, annotantur Concilij statuta ut posteri discant, quales fuerunt leges in Normannia sub Gulielmo Rege.

F

Ibid. fol. 521.
A. Anno D.
1106.

In medio Octobris Rex Luxovium venit cunctos Optimates Neustriæ convocavit, et utilissimum Ecclesiæ Dei Concilium tenuit ibi statuit Regali

gali Sanctione ut firma pax per omnes teneatur fines Normanniæ Judicioq; Sapientum irrita fecit, quæ frater suus Ingratis permiserat per imprudentiam.

Note this Council it was soon after the Battle of Tenerchbray, nothing here of introducing the English Laws.

A

*Anno Domini 1107 Rex Henricus Proceres suos convocavit et Robertum de Monte forti, Placitis de violata * fide propulsavit, unde Idem quia reum se sensit, licentiam eundi Jerusalem accepit, totamq; terram suam Regi reliquit.*

Mense Januario Falesiæ confessio Procerum coram Rege fuit.

B

Mense Martio Idem Rex Concilium apud Luxovium tenuit, et necessaria Subjectis Plebibus Edicta, ex consultu Magnatorum provide Sanxit.

Nonis Octobris Concilium Rotomagi congregatum est, ibi Rex Henricus de pace Regni tractavit cum Radulpho Cantuariæ Archiepiscopo, alijsq; Baronibus quos aggregaverat. At this Council were all the Bishops and great Abbats of Normandy.

C

Robert Duke of Normandy sent his Envoys to Canute to receive into England Edward and Alured Cousin Germans, the two Banished Sons of his Aunt Emme they returned without effect, at which the Duke being very Angry, Convocatis Ducatus sui Principibus, jussit magnam navium Classem fabricari, Quam ex omnibus Normannici maris partibus coactam, et infra exigui temporis Spatium in Anchoris, Armis, hominibusq; Robustissimis diligenter instructam stare apud Fiscannum in littore Ponti fecit.

D

This certainly was a Parliament, or great Council of Normandy which he called, to consult about making War with Knute, and providing Ships and men accordingly.

Henry the 2. When he heard King Stephan was dead, Convocatis fratribus suis Walfrido et Willielmo et Episcopis et Optimatibus Normanniæ, venit Barbe fluvium.

E

Mense Julio Henricus Rex Anglorum congregavit omnes Episcopos Normanniæ, et Abbates et Barones apud Novum Mercatum, et Ludovicus Rex Francorum adunavit suos Belvais, et ibi tractatum est de Receptione Papæ Alexandri, et Refutatione victoris, et consenserunt Alexandro Refutato victore.

F

1161. Prima Dominica Quadragesimæ Rex Hen. congregavit Episcopos, Abbates, Barones totius Normanniæ, apud Rothomagum, et Querimoniam faciens de Episcopis et eorum ministris, et vicecomitibus suis, jussit ut Concilium Juliæ-bonæ teneretur.

See Hoveden Anno Domini 1189, Richard the First called a Council or Parliament of the same Persons in Normandy; That year.

The Sapiētes were Lawyers and the Judgment was according to the Fendal Law, for by Ingratitude Fees were certainly lost.

Ibid. f. 823 C. A. D. 1107.

* This was also a Fendal Action and Tryal for Breach of Faith, which was Ingratitude.

Ibid. f. 831.

D. Anno eodem.

Ibid. f. 831.

832. Anno eodem.

Ibid. f. 846. B.

C. A. D. 1118.

Gemet. Lib. vi. c. 10.

Canutus Reg. nare incepit

A. D. 1117

Defijt A. D.

1135.

Chron. Norman.

Ibid. A. D.

1153. f. 990. C.

Ibid. f. 997.

A. E. A. D.

1159. Tempore Hen. 2.

Ibid. f. 998. A.

Anno D. 1161.

Tempore Hen. 2.

1. Ric. 1.

English

English great Councils or Parliaments.

Sim. Dunelm.
Col. 203. lin.
4. A. D. 1070.
4. Wilhelmi
primi.

Monast. vol. 1.
f. 44. A. D.
1084. Gul.
primi 18.

Eadm. Hist. lib.
1. f. 26. 1. 2. & n.
10. A. D.
1093. 6. Gul. 1.

Ibid. lib. 2. f.
38. lin. 6. A. D.
1096. 9. Gul. 2.

Eadm. f. 62. n.
10. A. D.
1101. 2.
Hen. 1.
Ibid. f. 65. n.
10. A. D.
1101. 2. Hen. 1.
Ibid. f. 67. n.
10. 20. A. D.
1102. festo
Sancti Mich.
3. Hen. 1.

Flor. Wigorn.
f. 65. 1. A. D.
1102. See Ho-
v d f. 249. a
n. 30. 3. Hen. 1.

Eadm. f. 70. n.
20. A. D. 1102.
3. Hen. 1.

* 11 est, Nobil-
tatem.

AT Pededra the Controversie between *Wulstan* Bishop of *Wor-*
cester, and *Thomas* Arch-Bishop of *York*, in *Concilio celebrato co-*
ram Rege, & Dorobernia Archiepiscopo Lanfranco, et Episcopis, Abbati-
bus, Comitibus, et Primatibus totius Angliæ terminata est. This
by *Selden* is acknowledged a Parliament.

In a Charter of King *William* the First, for changing the Canons of
Durham into Monks. *Hæc Carta confirmata est apud Westmonasterium*
in Concilio meo Anno Regni 18. Presentibus omnibus Episcopis et
Baronibus meis.

Anselmus igitur, Salva ratione sua, quam de Subjectione et obedi-
tia Romanæ Ecclesiæ in medium tulerat, petivit inducias ad istius rei ex-
aminationem quatenus Episcopis, Abbatibus, cunctisque Regni Prin-
cipibus una coeuntibus communi assensu definiretur, utrum Salvâ reve-
rentiâ et obedienciâ sedis Apostolicæ posset fidem terreno Regi servare,
annon. Dantur ergo induciæ, atq; ex regia Sanctione ferme totius regni
Nobilitas quinto Id. Martij pro ventilatione istius causæ in unum a-
pud Rochingheam coit.

Insequenti autem mense Augusto cum de statu Regni acturus Rex
Episcopos, Abbates, et quosq; Regni Proceres, in unum Præcepti sui
sanctione egisset, &c.

Episcopis Terræq; Principibus Wintoniæ sub uno Coactis.

Rex adunatis Lundoniæ Principibus Regni.

Annunte Rege celebratum est Concilium communi assensu Episcopo-
rum, Abbatum, et Principum totius regni, and these altogether are
there called Primates Regni utriusq; ordinis.

In festivitate Sancti Michaelis Rex fuit apud Westmonasterium, & cum
eo omnes Principes Regni sui, Ecclesiastici & Secularis ordinis, ubi
Anselmus tenuit magnum Concilium, i. e. præsidebat.

In the Controversie about Investitures, King *Henry* the 1st. spake
to Arch-Bishop *Anselm* privately to have gone to *Rome* to have in-
clined the Pope to an amicable composure in the Controversie about
Investitures. He thus answered the King. *Differantur hæc si placet*
usq; in Pascha ut audito Episcoporum regniq; Primatum Consilio, qui
modo non assunt, Respondeam hinc. Igitur in Pascha Curiam venit, Reg-
ni * *Ingenuitatem de negotio præsens consuluit, communis Consilii vocem*
unam accepit, æquum scilicet fore illum Tantæ rei gratia viæ laborem de-
bere non subterfugere.

Adunatis autem ad Curiam Regis in Pascha Terræ Principibus.

This Council was twice Prorogued, and when it met *Calend. Augusti* 'tis called

Conventus Episcoporum Abbatum et Procerum Regni in palatio Regis Lundonia.

A Of this very Council *Eadmer* in the *Life of Anselm* says,
Adunatis in palatio Regis Londini cunctis Primoribus Angliæ.

And of this Council *Eadmer* says, *Anselm* demanded subjection of *Gerard* Arch-Bishop of *York*,

B *Coram Rege, Regniq; Episcopis atq; Principibus.*

Adunatis ad curiam suam in Solennitate Pentecostes cunctis Majoribus Regni unde Anselmus & Thomas Eboracensis Electus & omnes alii Angliæ Episcopi statuerunt in presentia Regis assensu omnium Baronum suorum, ut, &c.

C *Rex Henricus tenuit Curiam suam in festivitate Pentecostes apud Londinum cum Episcopis & regni Principibus. Cæpit agere quid esset agendum.*

In subsequenti Nativitate Domini Regnum Angliæ ad Curiam Regis Lundoniæ pro more convenit, et magna Solennitas habita est et sublimis.

D *Episcopos et Principes Angliæ in unum apud Windeshoram venire fecit, to choose an Arch-Bishop instead of Anselm. 'Tis said of this Meeting which was Kalend. Maii 1114, nuper adunato Conventu totius Anglici Regni, &c. and what this Conventus totius Regni was we are told in the same Epistle. Huic Electioni affuerunt Episcopi, Abbates et Principes regni, et ingens populi multitudo. The ordinary people came to shout and make a noise at such meetings, and for good Victuals and Drink.*

E *Eodem Anno Rex jussit omnes Episcopos et Principes totius Regni ad curiam suam sub uno venire apud Westmonasterium.*

13 Kalend. Aprilis factus est Conventus Episcoporum, Abbatum et Principum totius Regni apud Sarisberiam cogente eos illuc Sanctione Regis.

Conventus Optimatum & Baronum totius Angliæ apud Saresbiriæ
F *14 Kalend. Aprilis factus est.*

Comites & Barones totius Angliæ apud Salesberiam conveniunt Cal. Aprilis.

Episcopi Abbates et Nobiles quiq; Lundoniæ adunati sunt presente Regina, communi Consilio Tractaturi.

Rex legalis Conjugii nexu olim solutus, ne quid ulterius inhonestum committeret, Consilio Radulphi Archiepiscopi, et Principum Regni

Ibid. f. 90. n. 30 A. D. 1107.

4 Several ways of expressing the same great Council by the same person. 1st. to Whitsunday. Ibid. n. 40. 50. then to the 1. of August. 8. Hen. 1.

Ibid. f. 91. n. 20. *Eadmer* in vita *Anselm*. Lib. 2. f. 30. Colon. 1573.

Hist. f. 91. n. 40. *Eadm.* f. 94. n. 50. A. D. 1108. Ibid. f. 95. lin. 1. 9. Hen. 1. Ibid. f. 102. n. 50. A. D. 1109. 10. Hen. 1.

Ibid. f. 105. lin. 3. circa. Annum Domini 1109.

Ibid. f. 109. n. 30.

A. D. 1114. Ibid. f. 110. n. 20. 30. Ibid. f. 111. n. 50. Ibid. f. 112. lin. 4. 14. Hen. 1.

Ibid. f. 114. n. 30. A. D. 1114. 16. Septembris.

Ibid. f. 117. n. 30. A. D. 1115. 15. Hen. 1.

Flor. Wigorn. f. 657. A. D. 1116. 16. Hen. 1.

Hoved. f. 271. b. lin. 8.

Eadm. f. 118. n. 20. A. D. 1116. Mense Augusti. 17. Hen. 1.

Ibid. f. 136. n. 20. Contin.
ad Flor. f. 659.
A. D. 1121.
the same words
22. Hen. 1.
Garvas. Doro-
bern. col.
1662. n. 30.
A. D. 1122.
23. Hen. 1.

F. 669 lin. 7.
A. D. 1123.
begin the year
at Christmas.
23. Hen. 1.

Malsb. f. 92.
b. n. 40.

Ricard. Hagul-
stad. col. 314.
n. 10. A. D.
1136.
1. Stephani.

Flor. Wigorn.
f. 668. A. D.
1138.
3. Stephani.

Hen. Hunt. f.
226. b. lin. 3.
A. D. 1151.
16. Stephani.

Chron. Norm.
A. D. 1152.
17. Stephani.

Joh. Brom-
ton. col. 100.
n. 50. ultimo.
Steph. A. D.
1154.

Glanv. Lib. 13.
13. c. 32.
Tempore
Hen. 2.
Hen. 2. began
his Reign.
Tempore
Hen. 2. A. D.
1154.
Ibid. Lib. 2 c.
7. Temp. Hen-
rici Secundi.
Anno Domini.
1164.
10. Hen. 2.
Gervas. Do-
robern. col.
1385. n. 60.
10. Hen. 2.
Quadrilog.
Lib. 1. c. 26.

*ni Quo omnes in Epiphania Domini sub uno Lundonia congregavit de-
crevit sibi in uxorem, &c.*

*2 Febr. factus est Conventus Episcoporum Abbatum ac Procerum
ex precepto Regis apud Glocestriam pro substituendo Pontifice loco de-
functi.*

This Council thus expressed by the Continuer of Florent. Wigorn.

*Vir eximie Religionis Willielmus Canonicus sanctæ Osgithæ de Cice
ad Archiepiscopatum Cantuariensem Glawornia, ubi in Purificatione Bea-
tæ Mariæ Rex tenuit Curiam suam eligitur.*

*Coacto apud Lundoniam magno Episcoporum Procerum et Abba-
tum Consilio, multa ecclesiasticarum et secularium rerum ordinata Ne-
gotia decisa litigia.*

*Stephanus in Regno confirmatus, Episcopos et Proceres sui Regni
regali edicto in unum convenire precepit : cum quibus generale Concilium
celebravit.*

*Rex Anglorum Stephanus in Octabis Paschæ Quod erat quarto Idus
Aprilis tenuit Concilium Northamptoniæ cui presidebat Turstinus Ebo-
racensis Archiepiscopus, Episcopi, Abbates, Comites, Barones No-
biles quique per Angliam.*

*Anno 16 Regis Stephani, Tedbaldus Cantuariensis Archiepiscopus,
et Apostolicæ sedis legatus, tenuit Concilium generale apud Lundoniam,
ubi Stephanus Rex et filius suus Eustachius, et Angliæ Proceres inter-
fuerunt.*

Upon agreement of King Stephen, and Henry Duke of Normandy
Rex primo recognovit in Conventu Episcoporum, Comitum, et ali-
orum Optimatum hereditarium Jus Henrici, &c.

*Stephanus Rex in festo Sancti Michaelis cum Episcopis et Opti-
matibus terræ Concilium tam pro Regni negotio, quam provisione Ec-
clesiæ Eboracensis, &c. Lundonia celebravit.*

*Cum quis Itaque infra Assisam Domini Regis, i. e. infra Tempus a Do-
mino Rege de Consilio Procerum ad hoc constitutum. About making
a Law for Establishing the Tryal and Recognition of Novel Dis-
seisin.*

*Est autem magna assisa Regale quoddam Beneficium clementia Princi-
pis de Consilio Procerum populis indultum.*

The Council at Clarendon about Becket's affair.

*Congregati sunt Præsules et Proceres Anglicani Regni apud Claren-
doniam in festivitate Sancti Hillarij.*

*Rex apud Clarendune Regnum convocat universum Quo cum venis-
sent Præsules et Proceres, exegit Rex instantius ut sibi promissa sol-
verentur, &c.*

Apud

Apud Clarendunam coram Rege & Magnatibus facta est Recordatio Regiarum Libertatum et Consuetudinum. Cui qui Thomas Cantuariensis Archiepiscopus, &c.

Convocatur Concilium generale apud Clarendonam Rex proponit, &c. Convocato Clero et populo apud Clarendon.

A Anno Domini 1164. 10 Henrici Secundi in presentia Regis apud Clarendon. 8. Calend. Febr. presidente Johanne de Oxonia de mandato ipsius Regis, presentibus etiam Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, et Proceribus Regni, facta est Recognitio, &c.

Ex mandato Regis, concurrentibus Episcopis et Proceribus, apud Clarendone 8. Kalend. Febr. 1164. post immensos Tractatus, &c.

The Council at Northampton the year following.

B Anno Gratiae 1164. qui erat Annus undecimus Hen. Secundi, idem Rex magnum congregavit Concilium apud Northampton.

Rex postmodum aliud generale edicit Concilium apud Northampton locum designans, &c.

Convenerunt Episcopi, Comites, Barones, totius Regni, mandato Regis urgente apud Northampton 3. Idus Octob. 1164.

Rex Angliæ præcepit Præsules et Proceres regni apud Northamptoniam una cum ipso Archiepiscopo convenire.

C Præter Tempus, locus etiam determinatur, nobile, videlicet, illud Regium Castrum, quod dicitur. Northampton ad diem igitur et locum hunc ex Edicto Regis, Regni Pontifices universi, et Proceres districtissime convocantur.

Rex aliud generale edicit Concilium apud Northamptonam.

Rex Angliæ congregatis apud Windeshores in octabis Sancti Michaelis Archiepiscopo Cantuariensi et Episcopis Angliæ et Comitibus et Baronibus, Terræ suæ coram Henrico filio suo et coram Laurentio Archiepiscopo Dublinensi.

D Rex Henricus pater magnum celebravit Concilium apud Windeshores in Octabis festi Sancti Michaelis. Presentibus Rege filio, et Richardo Cantuariensi Archiepiscopo, et Episcopis Angliæ, et coram Laurentio Dublinensi Archiepiscopo, presentibus etiam Comitibus, et Baronibus, Angliæ. In quo Concilio, &c.

Dominus Rex apud Northampton magnum celebravit Concilium in festo Conversionis Sancti Pauli de Statutis Regni coram Rege filio suo, et coram Archiepiscopis, Episcopis, Comitibus et Baronibus regni sui.

E Dominus Rex magnum celebravit Concilium apud Northampton de Statutis Regni sui circa festum Conversionis Sancti Pauli, coram Episcopis et Comitibus et Baronibus Regni sui. Et coram eis per Consilium Regis Henrici filii sui, et per Consilium Comitum et Baronum, et militum, et hominum suorum, &c.

Circa festum Sancti Pauli Rex Northampton veniens, ibi cum Episcopis, Comitibus, et Baronibus suis Angliæ magnum celebravit Concilium de Statutis Regni.

F Habito igitur Concilio Lundoniis Rex pater Consilio universorum Episcoporum, Comitum & Baronum Regni, concessit Regi Siciliae filiam suam.

Rex congregatis in urbe Lundoniarum Archipræsulibus, et Episcopis et Comitibus et sapientioribus regni sui, consuluit eos Quid tam magni regis nuntiis responderet, &c. who came to demand his Daughter Johanna for William King of Sicilie. Sapientiores instead of Barones.

Mat. Westm. n. f. 248. n. 50. A. D. 116.

Fits. Steph. p. 20.

Hoved. f. 282. b. n. 10.

Mat. Paris. f. 100. n. 20.

Rad. de Dice. to. col. 536. n. 30.

Note, all these old Monks begin the year at Christmas.

Hoved. f. 283. a. li. 7. 10.

Vol. 11. Hen. 2. Ben. Abbas. p. 21.

Rad. de Dice. to. col. 537. n. 10.

Gerv Dorob. bern. col. 1389. n. 30.

Quadtil. g. Lib. 1. c. 30.

Fits. Steph. p. 21.

Ben. Abbas p. 70. a. A. D. 1175.

21. Hen. 2.

Roger Hoved. f. 312. b. n. 10.

Anno eodem.

Ibid. f. 313. a. n. 50. A. D. 1175.

Ben. Abbas. p. 72 b. A. D. 1175.

Bromton. col. 1108. n. 10.

A. D. 1175.

Hoved. f. 315. a. n. 10. A. D. 1176.

22. Hen. 2. Ben. Abb. p. 77. a. A. D. 1176.

the very words of the Historian 22. Hen. 2.

Hoved. f. 320.
a. n. 30. A. D.
1177.
23. Hen. 2.

Rex Angliæ Pater celebrato Concilio generali apud Northampton post festum Sancti Hillarii, &c.

Ben. Abbas. p.
84. a. Anno
eodem.

Rex Angliæ statim post festum Sancti Hillarii venit Northampton, et ibi magnum celebravit Concilium, cum Episcopis et Comitibus, et Baronibus regni sui.

In the Controversie and claim between the Kings of Castile and Navarre, referred to the Court of the King of England.

A

Hoved. f. 320.
b. n. 40. A. D.
1177.

Prima die Dominica Quadragesimæ venit Rex Lundonias generale Concilium celebraturus, cui interfuerunt, Episcopi, (there named particularly) Abbates, Priores, Comites, et Barones Angliæ.

Ben. Abbas. p.
86. b. A. D.
1177.

Rex misit nuntios suos per totam Insulam Angliæ, et mandavit Archiepiscopis, Episcopis, Comitibus et Baronibus totius Angliæ Quod essent ad eum apud Lundonias Dominica prima post caput Jejunii.

B

Hoved. f. 337.
a. n. 20, 30.
A. D. 1179.
25. Hen. 2.

Dominus Rex pater celebrato magno Concilio apud Windeshores communi Concilio Archiepiscoporum, Episcoporum, Comitum, et Baronum, coram Rege filio suo, divisit Angliam in quatuor partes: et unicuique partium, præfecit viros Sapientes ad faciendam Justiciam in terra. Sapientes here for Judges, or Itinerant or Circuit Justices.

C

Hoved. f. 376.
a. n. 30. A. D.
1189. 1. Ric. 1.

Ricardus Rex Angliæ et Comites, et Barones sui qui crucem susceperant in generali Concilio Constituti apud Lundonias Juraverunt, &c.

Fol. 55. n. 50.
Anno Eodem.

And about the same business Mat. Paris thus. *Rex Angliæ Convocatis Episcopis & Regni proceribus apud Westmonasterium, a nunciis prædictis accepto Sacramento, &c.*

Hoved. fol.
418. B. n. 10.
Anno. 1194.
5. R. Ricardi.

Richardus Rex Angliæ convocatis coram eo Episcopis Comitibus et Baronibus Regni ostendit eis Literas Comitibus Johannis et earum Tenorem.

D

Ibid. fol. 419.
A. n. 20.

Martii 30. feria 4. Richardus Rex Celebravit Concilium apud Nottingham, cui interfuerunt Alienora Regina Mater ejus, Archiepiscopi, Episcopi, Comites, ubi postulat Judicium fieri de Comite Johanne.

Ibid. B. n. 40.

11 Aprilis Rex Angliæ Habito cum Episcopis & Comitibus & Baronibus suis cum deliberatione Concilio apud Northampton, &c.

E

Matt. Paris.
fol. 209. n. 50.
5. Reg. Johannis.

Anno 1204 In Crastino Circumcisionis Convenerunt ad Colloquium apud Oxonium Rex et Bagnates Angliæ, ubi concessa sunt Regi Auxilia Militaria, de quolibet Scuto Scilicet duæ Marcæ et Dimid. nec etiam Episcopi et Abbates Sive Ecclesiasticæ personæ sine promissione recesserunt.

Ibid. fol. 239.
n. 40. 14. Reg.
Johannis.

Anno 1213 Interfuerunt Concilio apud Sanctum Albanum Galfredus filius Petri, et Episcopus Wintoniensis cum Archiepiscopo et Episcopis et Bagnatibus Regni. Geofry fitz-Peter, and the Bishop of Winchester were the Kings Commissioners.

F

Ibid. fol. 247.
n. 20. Anno
1213.

Convenerunt Rex cum Legato, Archiepiscopus cum Episcopis, Bagnatibus, ac omnibus viris Religiosis ad interdicti negotium Contingentibus apud Radingum octavo Idus Decembris, &c.

Anno

Anno 1215 convenerunt apud Runinge Mede decimo quinto die Junii Rex & Magnates; At partibus seorum confidentibus ceperunt de pace diutius & Libertatibus tractare sepe dictis.

Ibid. fol. 255.
n. 40. 16. Jo
hannis.

A Anno 1223. Rex Henricus ad Natale tenuit curiam suam apud Oxoniam & postmodum in Octavis Epiphaniae apud Londonias veniens cum Baronibus ad Colloquium, requisitus est ab Archiepiscopo & Magnatibus aliis ut Libertates & Liberas consuetudines pro quibus Guerra mota fuit contra Patrem, confirmaret.

Ibid. fol. 316.
n. 50.
7. Hen. 3.

Anno 1224. Convenerunt ad Colloquium in Octavis Sanctae Trinitatis apud Northampton Rex cum Archiepiscopis Episcopis Comitibus Baronibus & aliis Sultis de regni Negotiis Tractaturi.

Ibid. fol. 320.
n. 30.
8. Hen. 3.

B Anno 1225. Rex Henricus ad Natale tenuit Curiam suam apud Westmonasterium presentibus Clero & Populo cum Magnatibus Regionis. In hac Sollemnitate completa concessa est Regi xv pars rerum Mobilium.

Ibid. fol. 323.
n. 10.
9. Hen. 3.
when Magna
Charta was
granted.

Eodem Anno Mense Martio Convenerunt apud Westmonasterium ad Colloquium Rex Anglorum cum Magnatibus suis.

Ibid. fol. 324.
n. 20.

C Anno 1230. 7. Calend. Februarii Convenerunt ad Colloquium apud Westmonasterium Rex cum Praelatis & aliis Magnatibus Regni; Ubi exegit Idem Rex Scutagium, de quolibet Scuto tres Marcas ab omnibus qui Baronias Tenebant tam Laicis quam Praelatis.

Ibid. fol. 367.
n. 50.
14. Hen. 3.

Anno. 1232. Nonas Martii Convenerunt ad Colloquium apud Westmonasterium ad vocationem Regis Magnates Angliae tam Laici, quam Praelati. Ubi Rex Auxilium per totam Angliam sibi dari postulat.

Ibid. fol. 372.
n. 40.
16. Hen. 3.

D Eodem Anno apud Lambheim ad Colloquium in exaltatione Sanctae Crucis Coram Rege Convenerunt Episcopi & alii Ecclesiarum Praelati cum Proceribus Regni. Ubi concessa est Regi 40 pars Mobilium.

Ibid. fol. 377.
n. 50.

Anno 1234. 5 Idus Aprilis Convenerunt ad Colloquium apud Westmonasterium Rex cum Comitibus & Baronibus: Et Archiepiscopus cum suis Suffraganeis.

Ibid. fol. 397.
n. 10.
18. Hen. 3.

E Anno 1236. 4 Calend. Maii congregati sunt Magnates Angliae Londini ad Colloquium de negotiis Regni tractaturi.

Ibid. fol. 429.
n. 30.
20. Hen. 3.

F Anno 1237. Tenuit Rex Curiam suam ad Natale apud Wintoniam, misit autem continuo per omnes fines Angliae Scripta Regalia, praecipiens omnibus ad regnum Angliae Spectantibus, videlicet Archiepiscopis Episcopis Abbatibus Prioribus installatis Comitibus & Baronibus, ut omnes sine omissione in octavis Epiphaniae Londoniis convenirent, Regni negotia tractaturi totum Regnum contingentia. Venit igitur die Sancti Hilarii Londonias infinita Nobilium Multitudo, viz. Regni totalis Universitas.

Ibid. fol. 435.
n. 10.
21. Hen. 3.

Eodem Anno Scripsit Rex omnibus Magnatibus, ut Coram eo, & Domino Legato in festo Exaltationis Sanctae Crucis apud Eboracum Convenirent de arduis Negotiis regnum Contingentibus tractaturi.

Ibid. fol. 446.
n. 30.

Anno

Ibid. fol. 579.

n. 40.
Note who
were the
Magnates
Anglie.
26. Hen. 3.

Anno 1242. *Scriptis Rex Anglorum omnibus suis Anglie Magnatibus, Archiepiscopis, Abbatibus, Prioribus, Comitibus & Baronibus districte precipiens ut omnes generaliter Londinum die Martis proxime ante Purificationem B. Virginis Convenirent de arduis negotiis regni dilationem non capientibus, cum summa deliberatione tractaturi.*

Ibid. fol. 693.

n. 20.
Note the
Magnates
28. Hen. 3.

Anno 1244 *Convenerant regia Submonitione convocati Londinum Magnates totius regni, Archiepiscopi, Episcopi, Abbates, Priores Comites & Barones.*

A

Ibid. fol. 696.

n. 30.
Note the
Magnates
30. Hen. 3.

Anno 1246. *Rex Missis Literis suis totius regni Magnates convocavit ut Londini die qua cantatur Letare Jerusalem videlicet media quadragesima de statu regni generaliter convenirent tractaturi.*

Ibid. fol. 696.

n. 10. & 698.

n. 40.

Compare this
with Magna-
tes above and
note who they
were.

Ibid. fol. 709.

n. 30. Magna-
tes.

Medio Quadragesime, videlicet die qua Cantatur Letare Jerusalem Edicto Regio convocata, convenit ad Parliamentum Generalissimum totius regni Anglicani Totalis Nobilitas Londini, videlicet Prelatorum, tam Abbatum, & Priorum quam Episcoporum, Comitum quoque & Baronum.

B

Eodem Anno die Translationis B. Thome Martyris habitum est Magnum Concilium inter Regem & Magnates Regni apud Wintoniam super Multiplici Regni totius, & Maxime Ecclesie desolatione.

C

Ibid. fol. 719.

n. 30. 31.

Hen. 3. & 720.

n. 50.

Anno 1247. *Fecit Dominus Rex Magnates suos nec non et Anglie Archidiaconos per Scripta sua Regia Londinum convocari.*

Ibid. fol. 730.

n. 10.

Eodem Anno Dominus Rex comperiens regnum suum enormiter periclitari, iussit omnem totius regni Nobilitatem convocari, ut de statu ipsius tam manifeste periclitantis, Oxoniis die qua Cantatur Quasi modo geniti, diligenter contrectarent.

D

Ibid. fol. 743.

n. 50.

34. Hen. 3.

Anno 1248. *In Octavis Purificationis Edicto Regio convocata totius Regni Anglie Nobilitas convenit Londini, ut de regni negotiis minis perturbati & depauperati & temporibus nostris enormiter Mutilati, diligenter & efficaciter simul cum Domino Rege contrectaret.*

Ibid. fol. 865.

n. 40.

37. Hen. 3.

Anno 1253. *In Quindena Pasche Mense Aprili, Tota Edicto Regio convocata Anglie Nobilitas convenit Londini de arduis Regni Negotiis simul cum Rege tractatura.*

E

Ibid. fol. 887.

n. 10.

38. Hen. 3.

Anno 1254. *Congregati sunt Anglie Magnates Londini; quibus significavit Rex quod pecunia indigebat, & viribus amplioribus ad repellendum violentiam magni Hostis Supervenientis.*

Ibid. fol. 904.

n. 40.

39. Hen. 3.

Anno 1255. *In Quindena Pasche que vulgariter Hokeday appellatur convenerunt Londini omnes Nobiles Anglie tam viri Ecclesiastici quam Seculares, Ita quod nunquam tam Populosa Multitudo ibi antea visa fuit congregata.*

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Ibid. fol. 913.

n. 40.

Anno sub eodem ad festum Sancti Edwardi fuerunt apud Westmonasterium omnes fere Anglie Magnates.

Ibid. fol. 1006.

n. 10.

54. Hen. 3.

Anno 1270. *Rex Anglie in Octavis S. Martini Parliamentum Tenuit apud Harleberwe in quo de assensu Comitum & Baronum edita sunt statuta que de Harleberwe vocantur.*

The

THE GLOSSARY.

*Allodium, Allodiarri, Alodium, Alaudum, Alodiarri,
Alode, Alodarii, Aloarii.*

ALL these words, though variously written, are of the same signification: There are many *Etymologies* of them given by **Budæus**, **Beatus Rhenanus**, **Abentinus**, **Cujacius**, and others, which I pass by as meer Conjectures. **Wendelin** in his *Salic Glossary* [1] of *Atuatit* words, derives them from the Saxon *Ael*, *omnis*, *Totus*, *integer*, *All*; which is always a note of Perfection in Compounds: And *Lod*, as he renders it, *onus*, from *Ladan tollere*, *auferre*. This I confess sounds well; but there can be no congruity of sense between the two words. Also he derives it from the Saxon *Aeld*, *senex*, *old*, *ancient*, *aged*; because *Alodium* was an old Patrimonial Inheritance that descended from *Ancestors* in Blood; and it was sometime called *Patrimonium Aviaticum*, when it came from the Grandfather, *Paternicum* when from the Father, *Maternicum* when from the Mother. These in Saxon were called *Alders*, in Latin *Majores*, in English *Antecessors*, or *Auncestors* in Blood. *Nullus Barbarus alodem aut vitam sine Capitali Crimine perdat*, No Barbarian shall forfeit his *Alode*, or Life without a Capital Crime. That is, If either he conspires the Death of the *Duke*, or invites his Enemies into the Country, or contrives to deliver a City to Strangers, and be convicted. *Tunc in Ducis sit potestate vita ipsius, & omnes res ejus & Patrimonium*, Then let his Life be forfeit to the *Duke*, and all his Goods and *Patrimony*. *Leg. Boioar. Tit. 2. Cap. 1. Sect. 3.* in another place, where there was Contention about the Bounds of Lands, and they could not be set forth, the Possessor was to affirm and make it good, *Hucusque Antecessores mei Tenuerunt, & in Alodem mihi Reliquerunt, &c.* Hitherto my *Ancestors* held so much Land, and left it to me in *Alode*, *ibidem*, *Tit. 11. Cap. 5.* Mr. [2] **Somner** says *Alodium*, *Alod*, is compounded of the Saxon *Ael* or *all*, and the Teutonic *hepd* or *heit*, which we call *hode*, or *hood*, that is, *alhode*, which expresseth the Quantity, Nature, Kind and Condition of a Thing, as *Knight-hode*, *Man-hode*, *Child-hood*, *Father-hode*, *Priest-hode*, *Neighbour-hood*, *Lively-hode*, and many more, which do as it were denote the Nature, Totality, and Integrity of a Thing; and this *Etymology* agrees well with the signification of the word; for by *Alodium* is meant *Propriety*, and Lands holden *Optimo Jure*, most freely, without any Works, Services, or usual *Præstations*, which though they are not properly under the *Dominion* of the Prince, yet they are under his [3] Protection and Guard.

[1] In the word *Alode*. The Derivation of *Allodium*, &c.

[2] Glossar. in the word *Feodum*, and in his *Gazet. kind*, p. 106, 107, &c.

Mr. *Somners* Etymologic in the word *Allodium*.

[3] *Wendelin ut supra.*

[4] *Du Fresn*
Gloss. in the
word *Allodium*

Allodium is the same with [4] *Prædium*, *Possessio*, *Hæreditas*, & *Proprietas*, which any Man may give or sell. In a great scarcity *Charles the Great* set the price of Grain, in which Law, *Allode*, and *Proprietas* seem to be the same, and are both opposed to *Beneficium* or *Feodum*; *Qui Beneficia Regalia, tam de Rebus Ecclesiasticis, tam de Reliquis habent, unusquisque suam familiam suo Beneficio, Nutricare faciat; & de sua proprietate propriam familiam nutriat, & si Deo dante, super se, & super familia sua, aut in Beneficio aut in Allode annonam habuerit, & venum dare voluerit, non carius vendat, &c. Capitul. Car. & Lud. Lib. 1. C. 132. Audivimus Quod aliqui reddant Beneficium Nostrium, ad alios homines in proprietatem, & in ipso placito dato pretio comparant, ipsas res iterum sibi in Allodem. Quod omnino Cavendum est Quia qui hoc faciunt, non bene Custodiunt fidem, Quam nobis promissum habent; & ne forte in aliqua Infidelitate inveniantur, Qui hoc faciunt, Deinceps Caveant se omnino à Talibus, ne à propriis honoribus, à proprio solo, à Dei Gratia, & nostra Extorres fiant. Ibidem, Lib. 3. C. 20. Hæreditatem Defuncti filius non filia suscipiat, &c. Let the Son of the Defunct have the Inheritance: If the Defunct hath no Son, ad Filium Pecunia & Mancipia, Terra vero ad proximum Paternæ Generationis Consanguineum pertineat; Let the Daughter have the Stock and the Servants, and he that is next a Kin to the Father the Land. Leg. Anglorum, Tit. 6. De Allodibus si quis absque liberis Defunctus fuerit, si Pater materque superstites fuerint, in hæreditatem succedant: Si Pater materque non fuerint, frater & soror succedant, si autem eos non habuerit, tunc frater & soror matris, patrisque succedant, & Deinceps usque ad quintum Geniculum, qui proximus fuerit in hæreditatem succedat. Sed Dum Virilis Sexus Extiterit, sæmina in hæreditatem abdicam non succedat, Leg. Ripuar. Tit. 56. De Allodibus.*

If any Man dies without Children, let his *Father* and *Mother*, if alive, succeed in the *Inheritance*: If he hath neither *Father* nor *Mother*, let his *Brother* and *Sister* succeed: If he hath neither, then the *Brother* and *Sister* of his *Father* and *Mother* may succeed; and so on to the *Fifth Generation*, let him that is next in Blood succeed. But while there is any of the *Masculine sex* in being, a *Woman* may not succeed in the *Grandfathers*, or *Ancient Inheritance*. And as it was Land that *Descended*, or Land of *Inheritance*, it was opposed to Land that was *Purchased*. *Wendel. & Du Fresn, in locis citatis.*

A Woman not
to succeed in
the Grandfathers
Inheritance.

[5] *Du Fresn*
ut supra.
Lands held in
Allodio were
much like our
Freehold.

It was much like that we call *Freehold*, [5] and was Land free from all *Præstation* or *Payments*, and all Service both Real and Personal, yet the Possessor acknowledged a *Lord* of whom he held it, as in *Honourable Fee*, *Dominum agnoscit, à quo Allodium tenebat in Feudum honoratum.*

[6] *Monast.*
Anglican. Vol.
2. f. 959. n. 50.
[7] *Ibidem,*
f. 960. n. 40.
[8] *Ibidem,*
n. 50.
Lands given in
Allodio to any
religious use,
were the same
with *Elemosyna*.

William when only *Duke of Normandy*, A. D. 1042. on the 12th of April, gave Lands in *Allodium* to the *Monastery of Ercasr*, Founded to the Honour of *St. Vigor*. *Ego Willielmus Normanzorum Dux, [6] Dedi Terram quam Vigorus barbatus tenebat in Allodio liberam & solutam ab omnibus Consuetudinibus mihi pertinentibus.* To the same *Monastery*, *Vigor of St. Denis* [7] gave Lands in *Allodio*, and *Hubert Fitz-Perion* [8] gave Lands in *Allodio*. So that here Lands given in *Allodio*, and *Elemosyna*, free from *Secular services* and *Præstations*, were reputed the same. So *William Rufus* in a *Penitential Humour*, and great fit of *Sickness*, on the sixth of March, A. D.

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A. D. 1093. gave to Anselm Archbishop of Canterbury, that City and the Abby of St. Albans in Alodium, [9] *præcepit itaque Rex ut sine Dilatione & Diminutione, investiretur (Anselmus) de omnibus ad Archiepiscopatum pertinentibus intus & extra. Atque ut Civitas Cantuariæ, quam Lanfrancus suo Tempore in Beneficio à Rege tenebat, & Abbathia Sancti Alban', quam non solum Lanfrancus, sed & Antecessores ejus habuisse noscuntur, in Alodium Ecclesiæ Christi Cantuariensis, pro Remedio Animæ suæ, perpetuo Jure Transirent.* Here Alodium was Land given in pure Alms in perpetual Possession, which was a kind of Inheritance in Right of the Church, and opposed to Benefice, or Fee, as it had Secular Service belonging to it: for that was given most frequently for Military Service, or in Serjanty for other Services and Performances, and was not an Inheritance, but for Life, or a Term only at the first Institution, and many ways forfeitable to the Lord or Patron, in whom the Fee remained, the Feudatary or Vassal having only the Profit, or *Dominium Utile* of it.

[9] Eadmer. Hiltor. Novor. f. 18. n. 40. 50.

Alodium opposed to Beneficium.

Some of this Land we find in *Domesday-Book*, but not free from all Payments and *Præstations*, for it always paid the Land-Tax called *Hidage*. [1] *Soartin tenet Drodintone de Rege, ipse & alter liber homo tenuerunt in Alodio de Rege Edwardo, tunc Geldabat pro una Hida & Dimid' tertia parte unius Virgatæ, Minus.* Soartin holds Drodintone of the King, he and another Freeman held it in Alodio of King Edward, then it was Taxed at one Hide and half, and the third part of one *Virgate* more or less.

Alodium not free from all Payments.

[1] Hantescire f. 54. Tit. Terra Tainorum Regis, f. 53. b. Col. 2.

Edwardus [2] *tenet de Rege unam Hidam in Coserige, ipse tenuit in Alodium de Rege Edwardo, & pro una hida se Defendebat, &c.* Edward holds of the King one Hide in Coserige, he held it in Alodium of King Edward, and it was Taxed for one Hide, &c. Geldare, and *se Defendere*, signifie the same thing in *Domesday*; and wherever we find any Alodium there, it is thus Entred.

[2] Ibidem, fol. 63. b. Col. 1. Berrocshire Tit. Terra Odonis & aliorum Tainorum.

According to the [3] particular, Municipal Customaries of France, there was Alodium Nobile, and Alodium Villanum. Noble Alod, had Jurisdiction, and superiour Justice belonging to it, and was not obnoxious to Homage or Feudal Service, nor Fines for License to Transfer or Sell it. Villan Alod was like the other in All Things, save that it had no Jurisdiction. In French the first is called Aleu Noble, and the later Aleu Roturier; and were exempt from all Jurisdiction and Superiority Feodal, but yet were subject to the Jurisdiction and Sovereignty of the King, or other Lord that had Jurisdiction over the place where it was.

[3] Berault Customs de Norm. Art. 102. Alodium Nobile & Villanum. The former not obnoxious to Feudal Service.

Alodiarii, Alodarii, Alodarii, and Aloarii, were Possessors of Lands of this nature. There were also Bona Alodialia, possessed after the same manner: but of the word Alodialis, as it is referred to a person, there may be some doubt, though Du Fresn saith it is the same with Alodarius, &c.

Aldii, Aldiones, Aldia, Aldiane.

A Compensation paid to the King of Lombardy for killing any Servant or Vassal.

* Vide Sect. 2. hujus Tituli: & in ipso furto tentus fuerit, id est, Regangi. 'Tis a Lombard word.

If a Servant steals, and his Patron neglected to make restitution, he becomes that Mans Servant from whom he stole.

He that bargains with another Mans Servant, is bound to restore without price.

[4] Glossar. in verbo *Aldius*.

[5] In the word *Alode*.

THe Persons and Goods of these Persons, were in the Power of their *Lords* and *Patrons*; yet if they Killed them, they lost the *Possession* of their *Children* and *Goods*, and paid a *Compensation* to the King for Killing them, which was the value of them when Living. *Si vero Aldius fuerit aut servus*, (that was killed) *perdat (Dominus) filios suos & res ipsius, & Componat in palatio Regis Wludigild, LL. Longobard. Lib. 1. Tit. 9. Sect. 26.*

*Si cujuscunque servus aut Aldius, Ancilla vel Aldia in furto Comprehensi fuerint, & Dominus eorum neglexit eos liberare, & usque ad dies triginta eos Dimiserit, sint * Regangi: & habeat eos in Transactum, cui furtum fecerint, & componat postea ipsum furtum sicut lex est & Edictum continet. Ibidem, Tit. 25. §. 59.*

If any Mans Servant, or *Aldius*, or Woman-Servant, or *Aldia*, were taken for Theft, and their *Lord* or *Patron* neglected to free them in thirty days, they were then to be reputed manifest Thieves, as if they had been taken in the manner or very act; and he from whom they had stolen, might have them, as if he had *transacted* or *bargained* for them, and he might compound with the Prince for the Transgression, according to the Law and Edict: that is the *Edict* of *Rotharis*, §. 6. and this very Title of the first Book was that Edict, *Sicut in hoc Edicto Legitur, Cap. or §. 1. Rex Rotharis.*

Si quis cum servo, aut Aldione, vel cum pertinente alieno, de re qualicunque convenerit; sine notitia Domini sui, & probatum fuerit, Quod res Domini sui naufragasset; Tunc reddat ipsam Rem, qui eam suscepit, absque pretio Domino ejus: & postea Dominus de servo vel Aldione suo faciat quod illi placuerit. Ibidem, Lib. 2. Tit. 33. §. 5. If any Man bargains for any thing, with another Mans Servant, *Aldio*, or one that so belongs to him as he cannot go from him, without the knowledge of his Master, and it be proved he imbezled his Patrons Goods, he that received them ought to return them without price; and the Master afterward may do with his Servant or *Aldio* what he pleaseth.

Aldiones vel Aldia ea lege vivant in Italia in servitute Dominorum suorum qua Fiscalius vel Liti vivunt in Francia, LL. Longobard. Lib. 3. Tit. 20.

Sir Henry [4] *Spelman* from *Amerpachius* his Notes, upon the *Constitutions* of *Charles* the Great, says, That *Aldii*, *Liddi*, *Lidi*, or *Liti* were German words, and differed not, unless one was then used in Italy, and the other in France and Germany, especially amongst those Germans which were called *Franks*, and affirms that both words do signifie a Servant.

Wendelin in his *Salic* [5] *Glossary* as he derives the word *Alode* from *Aelde*, because it was Land frequently descended from Ancestors in Blood, so he derives the words *Aldius*, &c. from the same, and says

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says they were *Glebæ ascriptitii*, Persons bound to live upon the *Alode*, or *Propriety*, and were part of the *Alode* left by Parents to their Children, as Servants, &c. upon other Tenures.

Aldii bound to live upon the *Alode*, or *Propriety*.

In the *Donation* of William Duke of Normandy to the [6] Monastery of St. Vigor before mentioned, he not only gives the Lands to be holden in *Alodio*, or *Propriety*, but gave also *Alodial* Persons.

[6] Monast. Vol. 2. f. 952. n. 40. 50.

- A *Dedi etiam Ecclesiæ Sancti Vigoris Radulphivillam, & unum Alodiale in ipsa Villa, & in Solevilla, unum Alodiale, dedi quoque unum Alodiale in Amundi-villa, quietum ab omni consuetudine.* This seems to give credit to Wendelius conjecture, also to shew that *Alodiarum*, and *Alodiales*, were not the same.

Alodiales given by the Conqueror to the Monastery of St. Vigor.

- B Yet perhaps *Alodiales* might be the same, or some such Persons, as the *Franci Viri & Villani*, Freemen and Villans, which Alfred the Giant gave to the same Monastery. The Chart is short, and contains much variety, and therefore shall cite the whole. Ego [7] Aluredus Sigas, in presentia Domini mei Willielmi Comitis, ac omnium

[7] Ibid. f. 960 Col. 1. n. 60.

- * *præterum ejus, pro anima mea, parentumque meorum, Dedi Deo & Sancto Vigori & Monachis ejus, totam terram meam de leporibus, faventibus uxore mea, & filiis, & filiabus, necnon & omnibus propinquis meis; in * Jus propriæ hæreditatis, cum omnibus quæ in Domino illic Tenebam. Hoc est terram cultam & incultam, & prata, Totamque Aquam cum dimidio Molendino: Silvam etiam de Geoma, set & terram quam Tenebam in Valle Cleopelli; & omnes Francos viros atque Villanos. Addidi etiam totam terram quam Walterus presbyter de me tenebat, in Villa quæ dicitur Caissei cum Tota Ecclesia & Decima; Et in Surrehamno tertiam partem Ecclesiæ cum Decima illi parti pertinente, & in eadem Villâ viginti acras terræ: Et in Huntevilla totam terram, quam prædictus Presbyter tenebat, & prata & sextam partem unius Molendini. Hæc omnia nobis pertinentia ego Walterus Presbyter, & filius meus Rigulfus, Deo & Sancto Vigori pro animabus nostris, post mortem nostram in * Dominio habere perpetualiter Concedimus hanc Cartulam. Ego Willermus Normannorum Dux, me auctoritate Coram * Episcopis & * Baronibus meis confirmo, atque ab omnibus Consuetudinibus liberam esse Concedo; & Quicumque hac violare præsumserit, Anathema sit. S. Sigillum vel signum, Willermi Comitis †, S. Matildis Comitissæ †, S. Odonis Episcopi †, S. Aluredi Sigantis †, S. Rogeri de Monte-Comerii †, S. Walteri Presbyteri †, S. Rigulfi filii ejus †.*

* See *Episcopi*, and *Barones* afterward.

* See *Dominium* afterward.

- C *que Aquam cum dimidio Molendino: Silvam etiam de Geoma, set & terram quam Tenebam in Valle Cleopelli; & omnes Francos viros atque Villanos. Addidi etiam totam terram quam Walterus presbyter de me tenebat, in Villa quæ dicitur Caissei cum Tota Ecclesia & Decima; Et in Surrehamno tertiam partem Ecclesiæ cum Decima illi parti pertinente, & in eadem Villâ viginti acras terræ: Et in Huntevilla totam terram, quam prædictus Presbyter tenebat, & prata & sextam partem unius Molendini. Hæc omnia nobis pertinentia ego Walterus Presbyter, & filius meus Rigulfus, Deo & Sancto Vigori pro animabus nostris, post mortem nostram in * Dominio habere perpetualiter Concedimus hanc Cartulam. Ego Willermus Normannorum Dux, me auctoritate Coram * Episcopis & * Baronibus meis confirmo, atque ab omnibus Consuetudinibus liberam esse Concedo; & Quicumque hac violare præsumserit, Anathema sit. S. Sigillum vel signum, Willermi Comitis †, S. Matildis Comitissæ †, S. Odonis Episcopi †, S. Aluredi Sigantis †, S. Rogeri de Monte-Comerii †, S. Walteri Presbyteri †, S. Rigulfi filii ejus †.*

Freemen and Villans given by Deed amongst the Normans.

- D *que Aquam cum dimidio Molendino: Silvam etiam de Geoma, set & terram quam Tenebam in Valle Cleopelli; & omnes Francos viros atque Villanos. Addidi etiam totam terram quam Walterus presbyter de me tenebat, in Villa quæ dicitur Caissei cum Tota Ecclesia & Decima; Et in Surrehamno tertiam partem Ecclesiæ cum Decima illi parti pertinente, & in eadem Villâ viginti acras terræ: Et in Huntevilla totam terram, quam prædictus Presbyter tenebat, & prata & sextam partem unius Molendini. Hæc omnia nobis pertinentia ego Walterus Presbyter, & filius meus Rigulfus, Deo & Sancto Vigori pro animabus nostris, post mortem nostram in * Dominio habere perpetualiter Concedimus hanc Cartulam. Ego Willermus Normannorum Dux, me auctoritate Coram * Episcopis & * Baronibus meis confirmo, atque ab omnibus Consuetudinibus liberam esse Concedo; & Quicumque hac violare præsumserit, Anathema sit. S. Sigillum vel signum, Willermi Comitis †, S. Matildis Comitissæ †, S. Odonis Episcopi †, S. Aluredi Sigantis †, S. Rogeri de Monte-Comerii †, S. Walteri Presbyteri †, S. Rigulfi filii ejus †.*

* *Dominium*, and *Jus propriæ hereditatis* are the same.

* This was a Norman great Council or Parliament.

F

Angli;

Angli, Anglici, Angligenæ.

THese words are frequently met with in *Ancient Historians*, as expressing Men of great Action and Atchievement, and are commonly thought to have been *Saxon-English*, and 'tis generally believed without the least Scruple, that they were such; but who-ever seriously attends to the things done, and will consider the Instances following, may perhaps change his thoughts.

Angli signifies more than English-Saxons.

William the Conqueror styled Rex Anglorum.

The very Titles of the *Conqueror*, and his *Successors*, plainly shew, that the *Normans* as well as *Saxons*, were called *English*. *Guilielmus Rex Anglorum*, and so his Sons *William*, *Henry*, and King *Stephen*, &c. nothing more frequent. In the *Conquerors* General Commission and Precept for the Restitution of Lands to *Bishopricks*, and *Abbies*, which had been taken away by his *Normans*. *Willielmus Dei Gratia Rex Anglorum*, *Lanfranco Archiepiscopo Cantuar.* *Et Goisfrido Episcopo Constantiarum*, & *R. Comiti de Du*, & *Richardo filio Comitis Gilberti*, & *Hugoni de Monteforti*, *Suisque aliis proceribus Regni Anglie Salutem*, &c. Can any man think, That *William* Esteemed himself King only of the *Saxon-English*, and not of his *Normans*, that came with, and after him? If the *Normans* were his Subjects as well, as the *Saxons* or *English*, then certainly they were Comprehended in the Word, *Anglorum*, and were Reputed *English Normans*, nay *English* without Addition, by King *William*, and the *Transmarine Normans*, and so understood, by others at that time; and the Direction of the Writ, to *Arch-Bishop Lanfranc*, the *Earl of Du*, *Richard* Son of *Earl Gilbert*, and *Hugh Montfort*, and his other great Men of the Kingdom of *England*, makes it more clear, for these were all *Normans*, and yet in the Commission, called his great Men of the Kingdom of *England*, or *English*.

A great design to Dethrone William Rufus, fol. 642. n. 32.

In the year 1088, which was the first of *William Rufus*, there was a Design laid, to Dethrone him, and make his Elder Brother *Robert King*, *Hoc Anno*, says *Florence of Worcester*, *inter Primates Angliæ, magna orta est Discordia, pars etenim Nobiliorum Normannorum favebant Regi Gulielmo, sed Minima: pars vero altera favebat Roberti Comiti Normannorum, & Maxima:* and then Reckons up the chief Favorers of *Duke Robert*, which were his two Uncles, *Edo Bishop of Baieux*, and *Earl of Kent*, who was Prisoner in *Normandy* until his half Brother the *Conqueror* Died, and *Robert Earl of Hereford* in *Normandy*, and *Cornwal* in *England*, *Goisfrid Bishop of Constance*, *Robert de Bolbaito* or *Botbait*, *Earl of Northumberland*, *Roger Earl of Shrawsbury*, and *William Bishop of Durham*, *Eustachius* the younger *Earl of Boloigne*, and the Mighty *Norman Robert de Belesino*. *Simeon of Durham* hath the same words, and adds to the rest, *Roger Bigod Earl of Norfolk* and *Suffolk*. Col. 214. N. 60. *Halsbury* likewise adds *Hugh de Grentemeisnil Earl*, or *Vicount of Leicester*, fol. 68. a. lin. 5. King *William* having notice of this Revolt and Contrivance, *Convocare fecit Anglos, & ostendit eis Traditionem Normannorum*,

& rogavit ut sibi auxilio essent, eo tenere, ut si in hac necessitate sibi fideles existerent, meliorem legem quam velint el gere, eis concederet, omnem injustum scottum interdixit, & concessit omnibus silvas suas & venationes: Angli fideliter ei juvabant. *Simeon Dunelm.* Col. 214. n. 60. The King (meaning Rufus) called together the English, asked them to help him, and that in his necessity they would stand to him, upon which condition they should have what Law they would chuse, and he also would forbid all unjust Taxes, and grant them their Woods and Forrests, and Hunting. The English faithfully helped him. *Florence of Worcester* says, The King hearing of these things, *Congregato quantum potuit ad presens, Normannorum, sed tamen maxime Anglozum, Equestri ac pedestri exercitu, tendere disposuit Roberteam;* gathered together as many as he could of the Normans, but most of the English, and with an Army of Horse and Foot marched toward Rochester.

- B *Malmsbury* thus, *Rex videns Normannos pene omnes in una Rabie Conspiratos, Anglos probos, & fortes viros, qui adhuc Residui erant, invitatoriis scriptis arcessit; Quibus super injuriis suis, Querimoniam faciens, bonasque Leges, & Tributorum levamen, liberaque venationes pollicens; fidelitati sue obligavit, f. 68. a. lin. 8, and n. 10.* And then by fair words and promises drew off from his Enemies Roger Earl of Shrewsbury, by which he broke the Party.
- C *Witalis* thus, King William so soon as he saw the contrivance against him, *Lafrancum Archiepiscopum cum suffraganeis presulibus, & Comitibus, Anglosque naturales convocavit, & conatus Adversariorum, & velle suum, expugnandi eos indicavit, f. 666. D.* He called together Lanfranc the Archbishop, his Suffragan Bishops, the Earls, and Natural English, and shewed them the Designs of his Adversaries, and his intention to oppose them. And in the next Page, *Omnes Episcopi Angliæ, cum Anglis sine Dolo Regem juvabant, Hugo Comes Cestrærie,*
- D *Guillermus de Warenna Robertus Haimonis filius, alique Legitimi Maturique Barones, Regi fideliter adhærebant, eque Armis & Consilio contra publicos hostes Commode favebant, t. 667. C.* All the Bishops of England with the English, without treachery assisted the King. Hugh Earl of Chester, William Earl of Waren in Normandy, and by Rufus made Earl of Surry, Robert Fitz-Haimon, Baron of Acreme-Ville in Normandy, and made Earl of Gloucester by the same King; and other true and ancient Barons faithfully adhered
- E to the King, and favoured him with their Arms and Counsel against the Publick Enemy. To these he adds Robert de Rodelent General of the Army that besieged Rochester-Castle, the Defendants whereof when they sent Conditions to the King, upon which they would yield, received answer, That he would Hang them All. Upon which severe Resolution, the greatest of his own Friends and Assistants applied themselves to him for favour towards them, using these Arguments,
- F *Nos quoque qui tecum maximis in periculis sicut cum tuo Patre, perstitimus, nunc tibi humiliter astamus, & pro compatriotis nostris obnixè supplicamus, &c.* We also that have been in the greatest Dangers with your Self and Father, We humbly request your Favour for our Countrymen, &c. *Ibidem, f. 668. A.* And by their intreaty he was overcome, granting their Lives, and Liberty to march out of the Castle with their Horse and Arms.

The *Primates*
Anglie so cal-
led, were
Normans.

Most of the
Saxon-English
held what they
had of the
Normans.

All the Bi-
shops in Eng-
land were
Normans, but
Worcester.

According to the sound of the word *Angli*, and a superficial Reading of the *Authors* here cited, most Men would think they were only *Saxon-English* intended, and exprest by that word: but upon due Observation of the *Historians*, and Persons which were by them called *Angli*, it cannot be so: for the *Primates Angliæ* on both sides, the chief Men of England who favoured both *Duke* and *King*, were *Nobiliores Normanni*, the more *Noble Normans*; and as it is clear by the particular enumeration of the Persons they were so, on the *Dukes* side, so it is evident they were *Normans* which assisted *King William*, and kept the Crown upon his Head: He called together the *English*, says *Balmsbury*, and *Simeon of Durham*, and promised them the best Laws they should chuse, or good Laws, ease in their Taxations, the injoyment of their *Woods* or *Forrests*, and the privilege of *Hunting*. Certainly these were great Men, that he called together, *English Earls*, and *Barons*, and not Men of the *middle* or ordinary *Rank*; for they could never have met in such Numbers, as was requisite for them to do, to protect and defend *King William*, had they not been headed by such, if they had either Arms, or Power, or Estates that depended not upon the *Normans*: And if any Man can shew me an *English-Saxon* that was either *Earl* or *Baron*, or that had any Power, or share in the Government, or many that had considerable Estates, that did not hold them of the *Normans*, or that at this time had great Woods, *Forrests*, and privilege of *Hunting* in them, I will confess I am mistaken. 'Tis true, *Balmsbury* says *Rufus* called together *Anglos probos, & fortes viros, qui adhuc Residui erant, &c.* These here meant were the *legitimi, & maturi Barones*, such as *Ordericus* tells us of, that came in with his Father, and ran many Hazards with him, and first settled themselves here after the Conquest; such as petitioned *King William* for favour toward their Countrymen shut up in *Rocheſter Caſtle*; as many of these (that were alive) as he could, he fixed to his interest by the promises before-mentioned: Yet some there were against him, whom he spared for their Merits toward his Father, and the Reverence he had to their Age, knowing they could not live long. *Antiquis Baronibus, Quos ab ipſo aliquantulum deſciverat nequitia, verſute pepercit, pro amore patris ſui, cui diu fideliter inhaſerant, & pro ſenectutis Reverentia: Sciens proſectò, quod non eos Diu vigere ſincerent Morbi, & Mors propria.* *Order. f. 669. B.* Some of those Ancient Barons that adhered to *King William* have been named by this *Historian*, to wit, *Hugh Earl of Cheſter*, *William de Warrenna*, *Robert Fitz-Haimon*, *Robert de Rodent*, all *Normans*, which came in with the Conqueror, beſides many others in general: And all the *Bishops* of England, who at this time were *Normans* and *Forreigners*, not one *Saxon* amongst them, but old *Wulſtan Biſhop of Worceſter*. See *Godw. de preſul. Angl.* 'Tis not probable these would raise an Army of Saxons, to beat them out of England again.

4° *Gul'emi Ruſi: Anſelmus invi'atus ab Hugone Ceſtrenſi Comite, Multisque alijs Anglozum, Regni principibus, qui euz animarum ſuarum, medicum elegerant, &c. Cadmer in Vit. Anſelm. Lib. 2. in princip.* Here *Hugh Earl of Cheſter*, and the other *Princes* or chief Men of the *English*, were all *Normans*, though called and reputed *English*.

Paris says that Hen. I. convened the *Clergy*, and all the *People* or *Laity* to *London*, and propounded to them that they would *receve* him as their *King*. The *Clergy*, and all the *Magnates* or great Men answered, If he would grant them, &c. they would unanimously make him *King*. He granted what they demanded, and forthwith *Thomas Archbishop* of *Dork*, and *Haurice Bishop* of *London*, Crowned him, f. 55. n. 2030. Both these *Bishops* that Crowned him were *Normans*, as also were at that time all the other *Bishops* of *England*. See *Godw. de Præsul.* and likewise all the *Earls*, *Barons*, and great Men were *Normans*; and yet in the next Page Paris says, King Hen. was Crowned *de Communi Consilio Gentis Anglorum*, f. 56. n. 50.

All the great Men of *England* were *Normans*.

This King Hen. fearing the Title of his Brother Robert, and the Revolt of the *English-Normans*, calling the *Magnates* or great Men of the Kingdom together, in a flattering Speech bespoke their assistance: *Magnaribus Regni Londonium Edicto Regio Convocatis, Rex talibus alloquitur, super mel & favum, o'cumque Mellitis & Mollitis blandiens Dixit, Amici & fideles mei, indigenæ, ac naturales, &c.* Paris, fol. 62. lin. 8. These great Men he spoke to, (or at least the *Historian* for him) were all *Normans*, and yet because most of them might be born in *England*, in that respect he calls them *home-bred*, or born in the same Country with * himself, and natural *English*. And proceeding in his *Harangue*, he tells them how he would Govern, and what great things he would confirm unto them, that they might thereby be engaged to stand faithfully by him, and stoutly repel the force and injuries of his Brother; *Si enim fortitudine Anglozum Roborer, inanes Normannozum minas nequaquam Censeo formidandas.* He addresseth himself still to the same great Men which were really *Normans*, and nevertheless calls them *English*. Ibidem, n. 20.

* Hen. I. was born in *England* A.D. 1068 the second year after the Conquest.

King Hen. calls his Norman Subjects *English*.

*Robertus interea Normanniam veniens Comitatum suum, obsistente nullo, recepit, quo audito omnes penè hujus Terræ (meaning England) optimates, Fidei Regi Jurata Transfuge fuere. Soli Robertus filius Patrimonis, & Ricardus de Redberg, & Rogerus Wigot, & Robertus Comes de Bellent, cum fratre Henrico (Earl of Warwick) justas partes fovebant, (meaning King Hen. I. his Cause) Malmsb. f. 88. a. n. 40. These five were all Normans, yet by Malmsbury called *Optimates hujus Terræ*, the chief Men of this Land, (meaning England.)*

A. D. 1072. in the sixth of William I. in a great Council at Windsor, in the Feast of Pentecost, *Ego Godfridus Constantiensis Episcopus, & unus de primatibus Anglozum consensit*, as a witness to the determination of the Controversie between Archbishop Lanfranc, and Thomas Archbishop of Dork, Malmsb. f. 65. b. n. 20. & 66. a. n. 20. This Godfrid was a Norman, and Bishop of Constance in Normandy, and yet styles himself one of the *Prime*, or *Chief* of the *English*. So in the ninth year of the same King William, 1075. in an Ecclesiastick Council or Synod at London: *Ego Godfridus Constantiensis Episcopus, et unus de Angliæ terræ primatibus subscripsi*, Spelm. Concil. Tome 2. fol. 8.

A Norman Bishop styles himself *Primus Anglorum*.

Henricus Rex Anglozum Samsoni Episcopo, et Arlsoni de Ahetot, et omnibus Baronibus, et fidelibus suis tam Francigenis, quam Angligenis de Worcester, salutem. Lib. rub. in Scacario, f. 163. b. This was the direction of the famous Charter of Hen. I. to Samson Bishop of Worcester, who was a Norman. Godwin. de Præsul. p. 509. and in the Province of Dork, ib. p. 23. and so was Arlo de Ahetot, who was made Hereditary Sheriff of Worcestershire by the Conqueror, and had many Lands given him in that Shire, Gloucester, Hereford, and Warwickshires; Dom. f. days

Francigenæ
and Angligenæ
were such
Normans as
were born in
Normandy and
England.

Normans that
had their con-
stant residence
here were re-
puted English.

Why Ralph
Archbishop of
Canterbury
was called Do-
mesticus.

Book in those Counties. And if in this place, the direction to French and English, signifies any thing more than bare form, the Francigenæ were such as were born in Normandy, or beyond the Sea, and the Angligenæ were probably such as were born in England, and lived here, injoyed their Fathers Estates, or had had Estates given them for their own Services and Merits.

The direction of the same Charter of Hen. I. in Mat. Paris is thus: Hen. Dei gratia Rex Angliæ Hugoni de Botland Vicecomiti, & omnibus fidelibus suis, tam Francis quam Anglicis, in Herefordscire salutem, &c. f. 55. n. 40. This Hugo de Botland was a Norman of an ignoble Stock, and a very ordinary person, advanced by King Henry above Earls, and Illustrious Men, and beyond what his Father ever possessed. Order. f. 805. B.C. And here the words of direction are Francis & Anglicis, almost equivalent with the other, the only difference is, they point at the place of Birth, and these at the place of Residence; and purporting such Normans that had Estates here, and lived in Normandy, or that sometimes were here, but mostly there, & other Normans that had their constant and fixed residence here, and were called and reputed English.

And that this is not said without Authority, observe the direction of the Charter of King William I. by which he severs the Ecclesiastick pleas from Civil Causes. Willielmus Dei Gratia Rex Anglozum, Radulpho Bainardo, Gualfrido de Wagna Willa, & Petro de Walonis (all three Normans) Ceterisq; meis fidelibus de Essex, Hertfordscire, & de Middlesex, Sciatis vos omnes & Ceteri mei fideles qui manent in Anglia, &c. Spelm. Concil. Vol. 2. f. 14. A.D. 1085. Certainly the English-Saxons would never have left England if they might have staid freely without injury and oppression, and enjoyed their Estates; and therefore the Ceteri fideles that staid in England, besides those three here named, were Normans also, and reputed English, because of their Residence here. The same directions, and in the same words, and to the same persons, are in the Charter or Grant of Stortford Castle, with the Lands belonging to it, To Maurice Bishop of London in the last year of the Conqueror, A. D. 1087. Dugd. Hist. of St. Pauls, f. 196.

Anno Domini 1114. and the 14th of Hen. I. April 25. Ralph Bishop of Rochester was chosen Archbishop of Canterbury, and going thither, on the 17th of May following, it is said of him, Egrot primos dies Introitus sui, in magna Gloria, & Diviti rerum apparatu, gaudentibus Cunctis, & Deum Cœlantibus, quod jam tandem, post diutinam expectationem, Ecclesiæ suæ Pastorem, non de externis, sed de Domesticis instituere dignatus sit. Eadmer, fol. 110. n. 10. 20. Men will be apt to think, because he is called Domesticus, that this Archbishop was an English-Saxon, and not a Forreigner, when it was not so: for he was a Norman born, first a Monk, then Supprior, Prior, and at last Abbat of Sees in Normandy. Godw. de Præful. p. 96. Malmsb. f. 131. a. n. 20. 30. 40. The reason why he was called Domesticus probably was, for that being forced out of Normandy he had remained in England some time with the Archbishop, who made him Bishop of Rochester, where he remained six years before his Translation, there being a multitude of Norman Abbats lately come over, and plying up and down for Preferments. Ibidem. Or he might be called Domesticus, in respect of Faricius an Italian, then Abbat of Farendon, to whom the King had a mind to give the Archbishoprick of Canterbury, but was perswaded by the Bishops and great Men to confer it upon this Ralph or Rodulph. Eadmer, f. 109. n. 40. 50. f. 110. lin. 5. Malmsbury. f. 131. a. lin. 5. If so, Normans were not in Eadmer's opinion, Externi, Forreigners or Strangers.

Ste-

Stephanus Rex Angliæ Archiepiscopis, Episcopis, Abbatibus, Comitibus, Justiciariis, Vicecomitibus, Baronibus, et omnibus fidelibus suis Angliæ, salutem. The chart of Agreement between King Stephen, and Henry the Second, Brompton, Col. 1037. n. 60. The Witnesses to this Chart were Theobald Archbishop of Canterbury, Henry Bishop of Winchester, Robert Bishop of Exeter, Robert Bishop of Bath, Jocelin Bishop of Salisbury, Robert Bishop of Lincoln, Henry Bishop of Ely, Gilbert Bishop of Hereford, John Bishop of Worcester, Walter Bishop of Chester alias Coventry, Walter Bishop of Rochester, Geoffrey Bishop of St. Asaph, Robert Prior of Bermundsey, in MSS. Rec. Dun a Knight-Templar, William Earl of Gloucester, Reginald Earl of Cornwall, Baldwin de Danington. in MSS. Comite Devon, Roger Earl of Hereford, Hugh Bigot, Patrick Earl of Salisbury, William de Alba Marla, Earl Albizic, perhaps of Oxford, Roger Earl of Clare, Richard Earl of Pembroke, Richard de Lucy, William Martel, Richard de Humet, Reginald de Warenna, Ranulph Bisset, John de Port, Richard de Camville, Henry de Essex. Ibidem, Col. 1039. n. 50. All these Bishops, except the Welsh Bishop, were Normans or Foreigners, and so were all the Earls and Barons from Norman, or other Foreign Parents and Extraction; yet we see they were English Bishops, Earls and Barons.

Baldwin de Redveris at this time Earl of Devon.

All these Bishops save one, and Noblemen were Normans and Foreigners, and yet called English.

Decimo Sexto Kalendarum Januarii Coronatus est, Rex Henricus filius Matildis Imperatricis à Theobaldo Cantuariensi Archiepiscopo, totius Angliæ Primate, et Apostolica sedis Legato apud Westmonasterium, Assistantibus et Cooperantibus Archiepiscopis Duobus, Quatuordecim Episcopis, Comitibus, et Baronibus Anglicanis, et Transmarinis, et innumera multitudine plebis. Gervas. Dorobern. Col. 1376. n. 60. There was then but Sixteen Bishops in England, and both the Archbishops, and all the Bishops, at that time, were Normans and Foreigners, and all these English Barons were likewise Normans; that is, they were of Norman Parents and Extraction.

A. D. 1154. primo Hen. 2. All the Bishops that assisted at King Hen. Coronations were Normans or Foreigners.

Rex Henricus Romaniam ire parabat, Francos, suosque vicinos sibi inimicitias extruentes, paci subigere, qua præditus erat industria volens. Sed ne quid in Anglia, se abeunte, remaneret indispositum, monasteria cuncta, quæ jamdiu curâ pastoralis fuerant destituta, Consilio Episcoporum, et principum suorum, locatis personis, in hoc officium ordinavit, Quod si aliqui eorum Lupi magis quam Pastores effecti sunt; ipsi viderint, Rex eos ut Pastores, non Lupi essent (sicut credi fas est) collocavit. Quod tamen credibilius forte videretur, si non omnes ex alienigenis, sed aliquos saltem ex indigenis terra. Non usque quaque Anglos perosus, tali in ministerio substitisset. Vite etenim meritum, ac regularis observatio Disciplinæ, necnon prudentia Rerum administrandarum, quæ oportebat eis qui respuebantur, non minus quam eis inerant, qui assimebantur; unum eos, Natio scilicet, Dirimebat. Si Anglus erat, nulla virtus, ut honore aliquo dignus judicaretur, eum poterat adjuvare. Si alienigena, solummodo, quæ alicujus boni speciem, amicorum Testimonio prætenderent, illi ascriberentur, honore præcipuo ilico dignus judicabatur. Eadmer. f. 110. n. 30. 40.

A. D. 1114. Hen. 1. 14.

None but Strangers advanced to any Preferment in the Church.

That is, *King Henry* prepared to go for *Normandy*, intending to quiet the *French* and their *Neighbours*, who were contriving against him. Before his departure, by the advice of his *Bishops* and Great Men, he filled the Vacancies of all *Monasteries*, which a long time had been destitute of *Pastors* or *Governours*; and if any of them prove Wolves, rather than Pastors, let them look to it. The *King* (as may verily be thought) placed them there to be Pastors, not Wolves: which yet would have seemed more credible, if the *King* had not so far hated the *English*, as to have put into those Places, not all *Strangers*, but some *Natives* of the Land: For there was not less merit, or observation of Regular Discipline, nor prudence in Administration of Affairs in these that were rejected, than in those that were assumed and approved of. There was but one thing that kept them from these Offices, to wit, their Nation or Country: If he was an *English-Man*, no Virtue could qualify him for any Preferment; if he was a *Stranger*, and had but a pretence only to Goodness by the *Testimony* of Friends, he was judged worthy the greatest Preferment.

Nothing could
qualifie an
English-man
for Prefer-
ment.

Here without doubt by *English*, the *Saxons* were meant and understood, as may most probably be asserted from the Circumstances of the *Antithesis*, or *contra-distinction* between them and *Strangers*: though they do not absolutely and necessarily prove it. For fresh *Normans*, like Birds of Prey, came every day into *England* seeking Preferments; and it was forty seven years now since the Conquest, and the complaint might be taken up, as well for the *Norman*, as *Saxon Natives*; the word used in contra-distinction to the words *Angli*, and *indigenæ terræ*, being only *alienigenæ*.

William King greets *William Biscoop* & *Godfred Potrefan*, & *Calle ya Burghwaren* binnen *London*, *Frencisce* & *Englisce*. That is, *King William* greets *William Bishop* and *Godfrey the Port-Rebe*, and all the Inhabitants of the *Burgh* within *London*, *French* and *English*. This *Charter* was granted by the *Conqueror* to the *Burgh*, *City* or *Port* of *London*, in the time of *William Bishop* of the same, who was a *Norman* and *Bishop* there, as well before as after the Conquest, and died in the year 1070, the Fourth of *King William*, when he had not made an absolute Conquest of *England*: for at his first entrance many *English* enjoyed their Estates and Titles, as they had done before his coming; and it may be, some, until he had wholly subdued the Nation. So that by *French* and *English* in this *Charter*, the *Saxons* and *Normans* are to be understood; and indeed in *Burghs*, and Trading Towns, those words may be understood of them at all times: for the *Conqueror* turned not out the Inhabitants there, or took away the small Fortunes they traded with, he let them remain there, and Work, and Trade, he only taxed them when he pleased, or at least raised their Tolls and Customs, and placed and settled his *Normans* amongst them, to keep them in subjection, who had in many Towns where they lived and traded more easie Privileges than the *English*, and the same they had before in the *Towns* and *Burghs* from whence they came in *Normandy*. See the Answer to *Argumentum Antinorman*. f. 289. E.

By French and
English, is
meant Saxons
and Normans
in the particu-
lar Charter to
the City of
London, &c.

In old *charts* we find the words *Angli*, & *Anglici*, *Angligenæ*, contra-distinguished to the words *Franci*, and *Francigenæ*.

A *Willielmus Rex Anglorum, Walterio Vice-Comiti, & omnibus Baronibus suis Francigenis & Anglis, de Comitatu de Glocestre, salutem, sciatis me dedisse Ecclesiæ sancti Andree de Robecetra, & Episcopo Eundulpho Manerium Estona Testimonio, Walcelmi Episcopi Wintoniensis, & Roberti Episcopi Lincolnensis & Willielmi Cancellarii, & Ranulphi Capellani, & Eudonis Dapiferi, & Rogeri Bigot, & Hugonis de Evermu. Monast. Angl. Vol. 1. f. 29. n. 20.*

B *Willielmus Dei Gratia Rex Anglorum Fidelibus suis Francigenis & Anglis, salutem, sciatis me Concessisse eam Donationem quam Haimo Dapifer meus fecit Ecclesiæ sancti Andree Roffensis Civitatis de Ecclesia, &c. Testes Robertus Comes Mellent, Robbertus Comes de Doritolo, & alii multi. Ibidem, n. 40.*

The *Fidels* and the *Barones* in the former *Chart* the same.

C *Willielmus Rex Anglorum Episcopo de Suthfolca, & Vicecomiti, & aliis Baronibus suis Francigenis & Anglis, salutem, sciatis me Concessisse & Confirmasse Donum Rogeri Bigot, quod dedit Ecclesiæ sancti Andree Robecetre scilicet Ecclesiam de Walestuna, &c. Testimonio Eudonis Dapiferi apud Wintoniam. Ibidem, n. 50.*

C *Willielmus Rex Anglorum Episcopo de Suthfexa, & Vicecomiti & ceteris Baronibus suis Francigenis & Anglis, salutem, sciatis me concessisse & Confirmasse Donum Gilleberti de Conebridge, quod dedit Ecclesiæ sancti Andree Robecetre, scilicet Ecclesiam de Rathwelda, &c. Testimonio Rogeri Bigot & Haimonis Vicecomitis apud Wintoniam. Ibidem, n. 60.*

D *Willielmus Rex Anglorum O. Episcopo Sarisberienfi, & L. Abbatu Glastonienfi & A. Vicecomiti omnibusque Baronibus Francigenis & Anglis de Summerfeta & Wiltunescire, salutem, sciatis me dedisse Deo & Sancto Petro in Bathonia & Iohanni Episcopo totam Civitatem Bathoniæ in Elemosinam, & ad Augmentationem Pontificalis sedis sue; & ut cum maximo honore, ibi Pontificalem suam habeat sedem; & de hoc propalantur Testes, Walcelinus Wintoniensis Episcopus, Robertus Lincolnensis Episcopus, Robertus Comes de Mellent, Henricus Comes de Warwicke, Robertus filius Haimonis, Eudo Dapifer, Ibo Dapifer, Robertus filius Gerald, Robertus Dispensator, Willielmus de Carokela. Ibidem, f. 185. n. 10.*

E *In Nomine Patris, & Filii, & Spiritus Sancti, Amen. Henricus Gratia Dei Rex Anglorum Omnibus Archiepiscopis, Episcopis, Abbatibus, Comitibus, Baronibus & Fidelibus suis Francis & Anglis, Notum sit vobis quod eam Donationem, quam Donavi Deo, & Sancto Petro in Batha, ubi frater meus Willielmus & ego Constituimus, & Confirmavimus sedem Episcopalem totius Summerfete, quæ olim erat apud villam quæ dicitur Wella, &c. Hujus rei Testes sunt Rogerus Salesberienfis Episcopus, Willielmus Eron, Willielmus Winton, Richardus London, Robertus Lincoln, Rentelmus Hereford, Hebeus Elensis, Radulphus Cancellarius, Iohannes Baiocensis, Ehzard, Barnardus, Gumbaldus Medicus, Gilbertus*

bertus de Aquila, Goisfridus de Magna Villa, Thomas de sancto Johanne, Willielmus Peberel de Dobza.

Rex Willielmus Anglozum Roberto Lincoln. Episcopo, et omnibus Francis et Anglis, Lincolnæ, salutem. Sciatis me Concessisse, quod Osbertus de Lincolnia det illas undecim Bovatas Terræ, quas tenet in Binnebroc de me Ecclesiæ S. Mariæ Lincolnæ in prabenda, &c. Testibus Rogero filio Geroldi, et Giroldi de Calz. apud pontem Arcars (Pont, Larch in Normandy) pridie post Festum Sancti Martini. Monast. Angl. Vol. 3. f. 262. n. 30. A

Willielmus Rex Anglozum T. Vicecomiti, omnibusque fidelibus suis, salutem. Sciatis me dedisse Sanctæ Mariæ Ecclesiæ Lincolnensi et Roberto Episcopo Ecclesiæ Sancti Martini cum omnibus appendiciis, &c. Teste Vicecomite. Ibidem, n. 40. B

Hen. Rex Angliæ, Thome Archiepiscopo, et Rigello de Albeni et Osberto Vicecomiti et omnibus Baronibus et fidelibus Francis et Anglis de Ebertwicsira, salutem. Sciatis me dedisse Roberto Lincolnensi Episcopo, Ecclesias scilicet de tribus Maneriis meis, videlicet Cuccwald, et de Churchebi et de Poningebam, &c. Teste Rigello de Albeni apud Wodestocam. Ibidem, Col. 2. n. 20. B

Hen. Rex Angliæ Ranulpho Belschino, Osberto Vicecomiti, et Picoto filio Colsueni et omnibus Baronibus suis de Lincolnia, salutem. Sciatis me Concessisse Roberto Episcopo Lincolnæ, ut faciat exitus in Muro Castelli mei ad sua necessaria facienda ad Domum suam, ita Tamen ut propter hoc murus Debilitetur. Testibus Alano de Lincolnia et Osberto Vicecomite apud Londoniæ. Ibidem, n. 30. 40. C

Hen. Rex Angliæ Osberto Vicecomiti et omnibus Baronibus suis et Burgenfibus Lincolnæ, salutem. Sciatis me dedisse Deo et Sanctæ Mariæ Linc. et Episcopo Roberto, et Canonicis vineam meam Lincolnæ, et quod ei pertinet, et Johannes prepositus eos inde saisiat. Teste W. Cancellario apud Stanfurd. Et Testibus Eudone Dapifero, et Ursone de Abetot. Ibidem, f. 263. Col. 1. n. 20. D

Hen. Rex Angliæ Ran. Belschino et Osberto Vicecomiti et omnibus fidelibus suis Francis et Anglis de Lincolnscira, salutem. Volo et precipio, ut Sancta Maria de Lincoln. et Robertus Episcopus, et Canonici Sanctæ Mariæ, ita bene et honorifice teneant Manerium de Welletuna, &c. Testibus W. Cancellario, et Ursone de Abetot apud Ribberiam. Ibidem, f. 264. Col. 1. lin. 5. E

Hen. Rex Angl. Roberto Episcopo Lincoln. et Canonicis Sanctæ Mariæ Lincoln. et omnibus Baronibus Francis et Anglis de Lincolnscira et de Oxfordscira et omnibus Baronibus totius Episcopatus Lincol. Sciatis me Dedisse et Concessisse Deo et S. Mariæ et Ecclesiæ Lincoln. Ecclesias de Surton, &c. Testibus Gaufrido Episcopo Rothomagi, et Ran. Cancellario apud Hereford. Ibidem, n. 20. F

Hen. Rex Angl. Roberto Lincol. Episcopo, et Ran. Belschino, et Osberto Vicecomiti et Baronibus suis et fidelibus Francis et Anglis de Lincolnscira, salutem. Sciatis me Concessisse Sanctæ Mariæ de Lincolnia

colia Ecclesiam Brand Presbyteri de Cozingeam, &c. Teste Ran. Deschino apud Wiretestr. Ibidem, Col. 2. lin. 5.

A Hen. Dei Gratia Rex Angl. Roberto Cobenitensi Episcopo, & Ricardo Vicecomiti & Rogero Comiti, & Willielmo Peberel. & Roberto de Ferrariis, & omnibus fidelibus suis de Notinhamscira & de Derberescira, salutem. Sciatis me dedisse Deo & Sanctæ Mariæ Lincolien. Ecclesie, Ecclesias de Derbessa & de * Wercheforda, &c. in præbendam, &c. Testibus Matilda Regina, & Roberto Patrimonis filio, & Hamone Dapifero, & Ursone de Haberot, & Roberto Vicecomite Lincolnæ. Ibidem, n. 50.

* Alias Wercheworda.

B Hen. Rex Angliæ omnibus Justiciariis, & Baronibus, & Vice-Comitibus, & omnibus fidelibus suis totius Angl. salutem. Sciatis me concessisse Alexandro Episcopo Lincolnæ, totam tertiam partem de servitiis Militum suorum de Episcopatu Lincolnæ; ad ponendam eam ad Castellum suum de * Werca, &c. Teste R. Episcopo Sarum & G. Cantuariario, & W. de Pontearch apud Blachemoram. Ibidem, f. 266. Col. 1. n. 20.

* Newmarket Castle.

C Hen. Rex Angl. Justiciariis, Vice-Comitibus, Baronibus, & Ministris, omnibusque fidelibus suis, Francis & Anglis de Lintolscira, salutem. Sciatis me concessisse & confirmasse Deo & Sanctæ Mariæ Lincol. & Roberto de Gzainvil Canonico Villam Algherbi, cum omnibus Appendiciis suis, quam scilicet Rogerus filius Geroldi dedit Deo & Sanctæ Mariæ Lincol. & prædicto Roberto in præbendam & Elemosinam, &c. Testibus R. Sarum Episcopo & Roberto Comite Glocestriæ, apud Westmon. Ibidem, f. 267. Col. 1. lin. 7.

D Stephanus Rex Angliæ, Archiepiscopis & Episcopis, et Justiciariis, et Vice-Comitibus, et Baronibus, et Ministris, et omnibus fidelibus suis totius Angliæ, salutem. Sciatis me dedisse et concessisse Deo et Ecclesie beatæ Mariæ Lincol. in præbendam Ecclesiam de Bramptona in terris et Decimis et omnibus aliis pertinentiis. Testibus Ricardo de Luci, et Willielmo de Caisinero, et Ricardo de Cambil apud Oxenford. Ibidem, f. 266. Col. 1. n. 60.

E Hen. Rex Angliæ Dux Norman. et Aquitan. et Comes Andegabiæ, Justiciariis, Vicecom. et omnibus fidelibus suis, Francis et Anglis de Lincolnia, et de Lintolscira, salutem, &c. Testibus Rogero Eborum Archiepiscopo, et T. Cancellario et Richardo de Luci, et Marino filio Geroldi Camerario. Et Willielmo filio Hamonis, et Roberto de Dunest, et Jocelino de Baillol. apud Lincolniam. Ibidem, f. 267. n. 50.

Hen. II.

F Willielmus Comes Cicestræ omnibus hominibus Francis et Anglis, et omnibus Dei fidelibus, &c. Testibus Johanne Decano Cicestræ, Henrico Cantore, Rogero Thesaurario, Monast. Angl. Vol. 3. f. 123. Col. 2. n. 30.

Willielmus Comes Cicestræ omnibus sanctis Ecclesie filiis, Ego concedo omnes Donationes quas Barones mei, Canonici Ecclesie Cicestræ Donaverunt vel Donaturi sunt. Ibidem, n. 50.

This William Earl of Chichester was William de Albini, Son to that famous William de Albini that came in with the Conqueror, and was his Butler: This William was really Earl of Suffex and Arundel, but from the places of his abode called sometimes Earl of Arundel, and sometimes of Chichester. *Dugd. Baron. Vol. 1. f. 119. Col. 1. 2.*

His Grandfather William Earl of Ou, or Ow, came in with the Conqueror; and though he had no English Title, yet he had Lands given him in most Counties in England. See *Append. n. 10.*

Johannes Comes Augensis omnibus Baronibus, atque omnibus hominibus suis Francis et Anglis, salutem. This John Earl of Du in Normandy did acknowledge in this Chart, that his Grandfather and Father did unjustly take away and with-hold from the Church of Chichester, the Mannor of Bixile, and by this Chart he doth restore it, *facta autem est hæc restitutio anno Incarnationis Dominicæ 1148. Testibus hujus Restitutionis presentibus, Roberto London, Radulpho Bathon. Simon Wigorn, et Roberto Eron. Episcopis. Verbas Westmon. Edw. de Reading, et Galfrido de Waberlega Abbatibus et aliis, Monast. Angl. Vol. 3. f. 127. n. 20.*

This was Gilbert Giffart, *Ibidem, n. 40.*

Rogerus Comes de Warwick, omnibus Baronibus suis, et Burgensibus, et hominibus suis de Cota et omnibus hominibus suis Francis et Anglis, salutem. By this Chart he confirmed all Lands, &c. to the Churches of St. Maries and All-Saints, (I suppose in Warwick) *Testibus Comitissa, Waltero Capellano, Gilberto de Thil, Edwino preposito. Ibidem Ecclesiæ Collegiæ, f. 28. Col. 1. n. 20.*

Baldwinus de Redberiis Comes Deboniæ et Richardus filius et hæres ejus Domino suo Henrico Episcopo Wintoniæ, et omnibus Baronibus et hominibus suis Francis et Anglis, salutem. This Chart was a Confirmation of Lands given to the Monastery of Twynham, by his Father Richard, made Earl of Devon by Hen. I. *His Testibus Lucia Comitissa, Henrico de Redeveriis et Willielmo fratre ejus, (these were two younger Sons) et multis aliis. Monast. Ang. Vol. 2. f. 180. Col. 2. n. 20.*

Robertus Warmiun omnibus fidelibus suis Francis et Anglis, salutem. By this Chart he gave Buregate to the Monastery of Bardene, *Testibus Ddone Capellano, Roberto de Fonteney, Rogero de Day, Ddone Clerico, Roberto de Faleys. Ibidem, f. 850. Col. 1. n. 40.* This Robert de Warmiun came in with the Conqueror, and Robert de Fonteney, so named of Fonteney Castle in Normandy, was his Son and Successor in the Honor of Camworth, given to his Father by the Conqueror. *Dugd. Baron. Vol. 1. f. 375. Col. 1. 2.*

The various Forms of Directions of Charts.

I have been thus large in shewing the great variety of the Directions of many Charts of our Ancient Kings and Barons, from which it should seem they were meer forms, and nothing else, and never designed to distinguish the Extraction and Countries of those to whom they were directed, seeing they were no ways concerned in them, as their Contents, or in point of interest or advantage they were to receive by them. 'Tis sometimes said, *Omnibus Baronibus suis Francis et Anglis*; sometimes *Omnibus Baronibus suis*, without the additional words of *Francis et Anglis*; sometimes *Omnibus fidelibus suis Francis et Anglis*; sometimes only *Omnibus fidelibus suis*. Sometimes the direction is *Omnibus hominibus suis Francis et Anglis*; sometimes barely *Omnibus*

A *Omnibus hominibus suis*; and there are as many directions in Ancient Charts without the words *Franci & Angli*, as with them. Sometimes 'tis *Omnibus Baronibus & fidelibus*, &c. Sometimes to particular persons, as to the Bishop of the Diocese, and Sheriff of the County, and *Aliis* or *Ceteris Baronibus suis*. Otherwhile *Omnibus Baronibus suis*, after particular persons of such or such a Shire or County, and yet seldom or never above one or two concerned in the Grant. These Variations are argument sufficient, that they signified no more than if the Direction had been *Omnibus Christi fidelibus*, or *Universis sanctæ Matris Ecclesiæ filiis presentibus & futuris*; or according to these forms, *Notum sit omnibus, sciant presentes & futuri*, &c.

B But if these Directions were made with intention of a distinctive Note, between the old English-Saxon, and new French or Norman Barons, 'tis strange that after the Conqueror was firmly established in the Throne, and at the very time of making some few of these Charts, in and toward the end of his Reign, and of the others in the Reigns of William the Second, and Henry the First, &c. Not one English-Saxon Baron should be found or heard of. From whence 'tis evident, if real Barons were meant or intended by the words *Barones Franci & Angli*, the English Barons covered under those Expressions, could be no others than such as had been born in England of Norman Parents; or such as came in with the Conqueror, that had great Estates given them, and made their constant abode in England. And the Norman Barons no other than such as had great Estates and Baronies in England, as also they had in Normandy, where they either altogether, or for the most resided, and were not in England but upon extraordinary Occasions, and extraordinary Summons, and differed not from the others by National Paternal Descent or Extraction, but only by National Residence or Nativity, from whence they had their Denominations of French and English.

D To illustrate in part what is said concerning such Normans as were born in England, that they were reputed English. I will give one considerable Instance of a very considerable Person, from the Genealogy of the Founders of the Priory of Lacock in Wiltshire. *Erat quidam Miles Strenuus Normannus, Walterus le Ewrus Comes de Rosmar, cui propter probitatem suam Rex Gulielmus dedit totum Dominium de Saresburia, & Ambresburia: Antequam ille Walterus le Ewrus in Angliam venit, genuit Geroldum Comitem de Rosmar le Gros, qui genuit Gulielmum de Rosmar le Beschyn Secundum, qui genuit Gulielmum Tertium de Rosmar qui obiit sine liberis; postquam Walterus le Ewrus genuit Edwardum, Natione Anglicum Natum, postea Vicecomitem Wiltes.* &c. Dugd. Monast. Vol. 2. f. 341. Col. 1. n. 50 60. That is, There was Walter le * Ewrus, or the Lucky, a stout Norman Knight, Earl of Rosmar, to whom for his Courage King William gave the whole Dominion of Salisbury and Amesbury: before this Walter came into England, he begot Gerold the Great or Dull, Earl of Rosmar, and he begat William le Beschyn, or the Higgard, the Second, who begot William the Third, who died without Children. Afterwards Walter le Ewrus begot Edward, by Nation born an English Man, who in process of time was Viscount or Sheriff of Wiltshire. This was Edward of Salisbury, (so named from the place of his Birth or abode) who had a great Estate in

Not one English Saxon Baron to be found among the Barones Franci & Angli.

* A Corruption of the obsolete word *Eureux*, which was used for *Heureux*, lucky or fortunate.

Wiltshire, and had Lands in Middlesex, and in Dorset, Summer-
set, Hertford, Buckingham and Oxfordshires, as appears by Dooms-
day-Book in those Counties. Ela the only Daughter, and Heir to
William Son of Patrick first Earl of Salisbury, and Great-Grand-
Child to this Edward, was Married to William Longespee Son to
King Henry 2. to whom his Brother King Richard the First gave the
Earldom of Rosmar as the inheritance of Ela, which came to her by
the hereditary right of Edward of Salisbury Son of Walter le Ew-
rux. *ibid.* Col. 2. n. 10. 20. from the Register of the Priory of
Lacock.

Such Titular
Barons, which
were great
Tenents to
great Earls
and Barons,
were here, ac-
cording to the
example of
Normandy. See
Order. Vital.
f. 810. C.

As for the *Barons* of great *Earls*, they were their great Tenents on-
ly, and but Nominal and Titular *Barons*, who held of them great E-
states as 4. 5. 6. 8. 10 *Knights Fees*, &c. and they held them immedi-
ately of the King, and these *Titular Barons* were *Normans*, no Man
being able to shew many *English-Saxons*, if any at all, that posses-
sed any great Estates in Military Services, or *Knights Fees*. Yet many
there were that held Estates by Rent, or other mean and base Services
of the *Normans*, and very frequently their own Lands or part of them
by new Tenure, or some part or parcels of the Lands of other Saxons
that had been Dispossessed.

But if any one can shew that any of the Witnesses to these *Charts*,
or any other *Charts* of the ancient *Norman Kings*, after the middle
of the Reign of William the first, were *English-Saxons*, or can
shew any *English-Saxon Earls, Barons, or Great Men* that were in
Eminent places near our ancient *Norman Kings*, or were in any *pub-
lick Trusts and Employments*, nay that can shew any such that had any
Considerable Estates except one or two, who at the first coming of the
Conqueror Married his *Nieces and Relations*, (which nevertheless con-
tinued not long in his favour) I will confess I am in the wrong.

Antecessor, Antecessores.

Antecessor
doth not refer
to Proximity
of Blood or
Kindred, as it
used in *Dooms-
day-Book*.

IN the Survey of England called *Doomsday*, these words do very of-
ten occur, but they there do not signifie such an *Antecessor*, or
Ancestor as in the *Writ de Horte Antecessoris*, the *Father, Uncle*,
or next of *Kin* to the *Petent or Demandant*, to whom he was next
Heir, but they signifie only a bare *Prepossessor*, one that possessed the
Land before the present Possessor, without any Relation to *Blood*, or
Kindred, and the *Antecessor* there most commonly was he that posses-
sed the Lands in King Edwards time before the Conquest, yet some-
time the *Antecessor* was a *Norman*, where the Lands had passed through
two or three Hands between the time of the Conquest and the time of
making the Survey; a few instances will make it clear.

Clamores

*Clamores in Sudtredinge Lincoliae, in great
Doomsday-Book at the latter end.*

A **D**E Calumnia quam Archiepiscopus Thomas (Archbishop of York) faciebat, hoc est quod debebat habere, Socam super terram Siward Antecessoris Ibonis Callebot. Dicit Wapentach et Tredinge, quod Siward tam bene tenuit terram suam cum Saca et Soca, sicut tenuit Godwinus Antecessor Archiepiscopi, et ideo non recte clamat. Here were Siward a Saxon, Antecessor to Ibo Callebot a Norman, and Godwin, Antecessor to Archbishop Thomas, who was a Norman, and Cannon of Bateux, and made his Claim in Right of his Church.

B T. R. E. fuit [1] saistus Almar Antecessor Archiepiscopi Thomæ de Soca decem Bovat. in Ullingham, &c. These were no Antecessors in Blood.

C In Dersincham [2] unus liber homo de xii Acris Val. xii d. hoc tenet Petrus Halonientis (a Norman) de hoc habuit suus Antecessor. Commendationem tantum. Stigandus Socarz. And thus it is wherever Antecessor is named, and there cannot be any pretence for Proximity of Blood and Kindred, between the Antecessor and Successor.

In the Chart of William [3] the Conqueror, by which he restores to St. Pauls in London all the Lands taken away in the time of his Predecessors, 'tis Tempore Antecessorum, who could not be Ancestors in Blood to whom he was Heir.

D King Henry the First, [4] mentioning the Customs and Rights which those that held Lands in the Wapentachs belonging to the Bishop of Lincoln, commanded they should do them as fully as ever they performed them to Robert Bishop of Lincoln, vel alicui Antecessori suo. This Robert was Robert Bloet, Consecrated Bishop of Lincoln, A. D. 1092. and died Jan. 10. 1122. to whom succeeded Alexander, Consecrated Jul. 22. A. D. 1123. and sate 24 years; they were both Normans. Godwin de Præsul. p. 340. 341.

E The Archbishop of York in his Chart or Certificate to King Hen. II. how many Knights Fees he held, in Capite, saith thus, Antecessores nostri non pro necessitate servitii quod debent, set quia Cognatis et servientibus suis providere volebant, &c. In Lib. Rub. in Scacario, Tit. Eborascire. Here could be no Proximity, no Relation in Blood in these Cases.

F

C 2

Appeal,

The Conqueror gave to this Ivo Talbois in Marriage Lucia the Sister of the Earls Edwin and Morchar, and with her all their Lands in Lincolnshire. Ingulph. Hist. Croyl. f. 13. a. lin. 2. 3.

[1] Ibid. Tempore Edw. Reg.

[2] In the same Book in the end. Tit. Invasiones in Nordfulc.

[3] Dugd. Histor. of St. Pauls, f. 190.

[4] Cart. Hen. 1. Monast. Angl. Vol. 3. f. 262. Col. 2. n. 50.

Appeal, Appellatio, Appellum.

THe *Civilians* use the word *Appellatio*, and it most commonly signifies with them, a removing of a Cause from an Inferior to a Superior Jurisdiction. Most of the *English Lawyers*, both Antient and Modern do use the word *Appellum* from the *French Appel*, (who yet use it in the same sense the *Civilians* do.) [5] *Briton* and [5] *Stamford* say an *Appeal* is a *Plaint* which one Man makes upon another, with purpose to attain (i. e. prove him Guilty) of Felony by a certain form of words conceived in his own Name, which anciently according to [6] *Bracton* were these; *A. appellat B. de morte C. fratris sui, quod sicut ipse A. & C. frater suus essent in pace Dei & Domini Regis, apud Talem locum, faciendo quoddam Tale, vel transiendo à Tali loco usque ad Talem locum, Tali die, Tali anno, & Tali hora; Venit idem B. cum talibus nominandis, & nequiter & in * Felonia, & in assultu premeditato, & contra pacem Domini Regis ei datam, fecit idem B. prædicto fratri suo C. Unam plagam mortalem in Capite quodam Gladio, vel aliquo alio genere armorum Molitorum, ita quod obiit infra Triduum, de plaga illa; Et quod fecit hoc nequiter & in felonia, & contra pacem Domini Regis, offert se Disrationare versus eum ubicunque per Corpus suum. Sicut ille qui præsens fuit & hoc vidit, & sicut Curia Domini Regis considerat.*

That is *A.* appeals *B.* of the Death of his Brother *C.* That he the very *A.* and his Brother *C.* were in the peace of God and the King, at such a place (which was particularly to be named) doing such a certain thing, (which was also to be named) or passing from such a place to such a place (which were likewise particularly to be named) such a day, such a year, and such an hour, (all which were to be named) the same *B.* came with such, which were to be named, and wickedly and feloniously, and by premeditated (or premeditated) Assault, against the Kings peace, made a mortal wound in the head of *B.* his said Brother, with a certain sword, or other sharp weapon, so that he died of that Wound in three days; and that he did this wickedly, and feloniously, and against the peace of the King, he offers himself to prove it by his Body, (that is by Duel) in any place whatsoever, as he that was present and saw it, and as the Kings Court shall award, or judge. If there were any Accessories or Assistants in the Murder, then there was an *Appeal of Force*, as 'twas called, brought against them, [7] *Idem A. apellat talem de fortia quod cum ipse & C. frater suus, &c.* and then says how he bound or held his Brother, or gave other assistance whilst *B.* killed him.

The Defendant or Appellee was also bound to a form of words. [8] *Et B. de facto similiter venit, & Defendit omnem feloniam, & pacem Domini Regis infractam, & quicquid est contra pacem Domini Regis, & Mortem & omnia quæ versus eum * proponuntur, & totum de verbo in verbum, secundum quod contra ipsum proponitur; & tunc habebit electionem penendi*

[5] P. 38. b.
[5] Lib. 2.
c. 6. p. 58. b.

[6] P. 138. a.
n. 2. lib. 3. c. 19

* This is almost a Tautology; for Felonia is a Gothick Feudal word, and signifies only a great and heinous wickedness, from the word *fehl*, or *feil*, *noxa*, *defectus*, *lappus*, *peccatum*. *Locen. in Verbo.*

[7] Ibidem,
n. 5.

[8] Ib. b. n. 6.
* That is a Civil Law word, and *Bracton* was a Civilian, though a Judge of what was then reputed the Law of England.

*ponendi se super [9] patriam, vel defendendi se [9] per Corpus suum sic dicendo. Quod inde non est * Culpabilis, & ponit se super patriam pro Bono & Malo (si patriam elegerit) vel paratus est Deferre versus eum per Corpus suum, sicut Curia consideraverit.*

A That is, and he that is Appealed of the fact, comes and denies all the Felony, and breach of the Kings Peace, and the Murder, and all things that were propounded (*i. e.* objected) against him; and denied the whole, word for word, as it was objected against him; and then he might have his choice, of putting himself upon the Country, or Defending himself by his Body (*i. e.* by Battle) by saying, *Not Guilty*, and putting himself upon the Country for Good and Bad, or for Better and Worse; Or that he was ready to make good his innocency against him by his Body, as the Kings Court should award, that is, in such manner, place and time as they should direct the Duel to be waged: and immediately *Bracton* describes the form, and manner of B Waging Duel, according to the Judges Direction, and the Niceties attending it.

C This was *Roman Law*, and in the *Grand Custumer*, Cap. 68. *Tit. Supre de Meudre*; there is the same process which is contained in this and some other following Chapters of *Bracton*. There are many other Appeals in *Bracton*; as an Appeal of *Felonious* wounding against the peace, lib. 3. c. 23. in which the Appellant offered to prove it by his Body. [1] In this case the wound was searched; *Et designandum erit, Cujus longitudinis fuerit plaga, & cujus profunditatis, & utrum sit plaga vel * Rissura, ad hoc quod procedat Duellum vel non procedat; ut sciri possit per factum, Utrum sit * Injuria vel feloniam*: and it was to be discovered how long, and how deep the Wound was, and whether it was a Wound, or the Skin and Flesh was only Rissled, or as we now call it, Rippled, and that from search it might be determined whether the Duel should proceed or not, and that it might be known D whether the Fact was a Trespass or Felony.

E Another [2] Appeal there was of Wounding and *Maim*, and here it was laid that the Defendant or Appellee did it *nequiter et in feloniam*, and the Appellant offert *Disfrationare versus eum, sicut homo Maimatus, prout curia Domini Regis consideraverit*; in this case the Defendant or Appellate had no Election, but was tryed *per patriam*, because it was granted, a Maimed man was not fit to maintain Battle against him, nor could not make proof by his Body, and therefore 'tis here said he offered to prove it against him as a Maimed man.

F Another [3] Appeal there was of false imprisonment against the peace, and this was laid to have been done *Nequiter & in feloniam*, wickedly and feloniously, & hoc Appellans offert probare per Corpus suum vel alio modo sicut curia Domini Regis Consideraret, and this the Appellant offers to prove by his Body, or otherwise as the Kings Court should direct; here the Defendant had his choice of Tryal by Battle, or the Country.

Another there was of [4] Robbery against the peace, which was laid in the Appeal to have been done wickedly and feloniously, &c. And in this the Appellant offered to prove it by his Body; and the Appellee had his choice of Tryal by Duel, or by the Country.

Another

[5] This was the reason why the Clerk of the Assizes asks the Prisoner when he arraigns him, How he will be tryed?

* After that question, the Clerk of the Assizes says *Cul. Prii, i. e. Prii*, he should say *Non Cul. Prii*, if he pleads Not Guilty; that is, he takes or chuseth the Plea of *Non Culpabilis*, or Not Guilty, and he should say *Cul. Prii*, if he pleads *Culpabilis*, or Guilty

[1] Ibidem, lib. 3. c. 23. n. 2.

* In the next Chapter 'tis *Rissura*.

* *Injuria* is another Civil Law word for Trespass.

[2] Ibidem, c. 24. n. 1. 2. An Appeal of Wounding & Maim.

[3] Ibidem, c. 25. n. 1. 2. &c. An Appeal of false Imprisonment.

[4] Ibidem, c. 26. n. 1. 2. An Appeal of Robbery.

[5] Ibid. c. 27.
An Appeal of
Turning and
Robbing.

Another [5] there was of *Wicked Burning* and *Robbing* of Houses, the Appeal was laid in the same manner, and the *Defendent* had his choice as in others.

[6] Ibidem,
c. 28. n. 2.
An Appeal of
Ravishment.

The last is [6] of *Rape* or *Ravishment*. The Appeal was laid as others, but here was no choice for the *Defendant*, for the Woman by reason of her Sex could not maintain battle against him. In all these Appeals, the *Defendant* was to deny the Appeal word for word, as it was laid.

[7] C. 67. Tit.
De Querelles.

In the [7] *Grand Custumer* of *Normandy*, these are called *Plaints* and *Suits* much oftner than Appeals. *Il ya querelle de Meindre, d'Homicide, & de Mehaing, des Tresnes Fraintes: de Despuccellement de femmes à force, de Roberie, d'assault de Charue, d'assault de Maison, de Trahison. Entre les aultres nous dirons premierement de Suyte de Meindre, Come & par quelle forme de parolles len Doibt Suyr: Et toutes telles Manieres de Suytes sont Appellees de Felonie.* There is a *Plaint* of Murder, of Homicide or *Manslaughter*, of *Mayhem*, of *Truce* or *Peace* broken, of *Ravishment*, of *Robery*, of *Assault* made upon Husband-Men at Plough, or upon the Plough, of *House-Breach*, and of *Treason*. Amongst the others we will first speak of *Suit* of Murder, how and by what form of Words it is to be prosecuted, and all such manner of Suits or *Processess*, are Appeals of *Felony*, and so the Author proceeds to the 68 Chapter which was mentioned before. *Bracton* calls *Fresh Suit* an Appeal, or at least the thing for which it was made.

[8] Lib. 3. c. 23
n. 1. p. 144. a.

Et [8] *Appellans Quæsitus si levavit Clamorem & Hutesium, & quando venit ad Comitatum cum Appello suo.* And the Appellant was asked if he had levied *Hue* and *Crie*, and when he came into the County with his Appeal.

[9] Lib. 14. c. 1

Glanvill [9] calls an Appeal an accusation, and the Appelloz and Appeller, *Accusator* and *Accusatus*, and gives a short account of what *Bracton* says in many Chapters, and says that if the *Accused* or *Defendent* be sixty years of Age and upwards, or Maimed, he shall be tried by *Duel*, but shall purge himself *per Dei Iudicium*, by the Judgment of God, *scilicet per Calidum ferrum, vel per aquam, pro Diversitate Conditionis hominum.* That is to say by hot Iron, or Water according to the divers Conditions of Men: *Scilicet per ferrum Calidum si fuerit homo liber, per Aquam si fuerit Rusticus.* That is to say, by hot Iron if he were a Freeman (i. e. a Gentleman, or Man of Value) by Water, (that is by trying whether they would Sink or Swim, as they do *Witches*) if a *Rustic*, *Villain*, or ordinary Country Man.

[1] Ibid. c. 3.

In an Appeal of Murder brought by the Wife in *Glanvill's* time, the Accused might [1] chuse whether he would stand the proof of the Wife against him, or whether he would purge himself from the Crime objected to him, *per Dei Iudicium*, by the Judgment of God. To the other Appeals, this Author adds an Appeal of *Treason* which was determined by *Duel*, Lib. 14. c. 1.

Appeals in
Normandy and
England how
brought.

In sum, Appeals in *Normandy* and in *England* according to *Glanvill*, *Bracton*, *Britton*, &c. were such Suits and Plaints, as were

were prosecuted in a strict form of words prescribed to the *Plaintiff* and *Defendant*, or *Appelloz* and *Appellee*, and which was determined by *Law Apparent*, that, is Battle or Duel, and sometimes by *Ordal*; or at least it was such a Suit wherein Law Apparent was allowed, and left to the choice of the Defendant. And *Quere*, Whether this *Law of Appeals* be Abrogated, or only Antiquated and Disused?

A Sir Edward Coke [2] says *Appellum* signifies *Accusation*, and therefore to *Appeal* a Man is as much as to *Accuse* him; and in Ancient Books, he that doth *Appeal* is called *Accusator*, and is peculiarly in legal signification, applyed to *Appeals* of three sorts: First of Wrong to his *Ancestors*, whose Heir Male he is; and that is only of Death: The second is of Wrong to the *Husband*, and is by the Wife only, of the Death of her Husband to be prosecuted: The third is of Wrongs done to the *Appellants* themselves, as *Robery*, *Rape* and *Mayhem*.

[2] First Inst. f. 287. B.

Several sorts of Appeals.

B In an *Appeal of Death, Robery, Rape, &c.* Sir [3] Edward Coke says the King cannot pardon the *Defendant*; for the *Appeal* is the Suit of the Party to have *Revenge* by Death. And the only reason assigned in all the Law-Books why an *Appeal* is given to the *Wife*, or next *Heir*, is *Revenge* to be taken for the Wrong. But by an Ancient Record the *Appeal* in *Murder* seems sometimes to have been brought in Hopes of a *Composition*, and *Pecuniary Satisfaction* from the *Defendants*, which could not have been transacted, nor the Agreement made without the Kings License, lest he should hang up the *Murderer* after his peace made with the Party. [4] *Marinus de London dat Domino Regi sexagaginta sex Marcas duos Solidos, & tres Denarios pro Licentia Concordandi de Appello unde Denuz Brunus eum Appellabit de Morte Patris sui.* And two others gave the same Sum.

[3] Third Inst. f. 237.

[4] Oblat. i. Johan. M. 2.

Clerius

F

Clerus & Populus, Clerus & Plebs, Clerus & Vulgus, Incole.

The signification of the word *Populus*.

[5] Mat. Westmor. f. 424. n. 30. A. D. 1295. 23 Ed. 1.

[6] Ibidem, f. 30. n. 40. 50. A. D. 1297. 25 Ed. 1.

plebs were the Lay-Nobility.

[7] Ibidem, f. 429. 430. * Ibid. f. 430. n. 20. In *Cristino Translatiōis beati Thome Martyris citatis Comitibus, & Baronibus Regni Londini*; i. e. 6 Julii A. D. 1297. 25 Ed. 1.

* Mandante Rege suo Constabulario & suo Mareschallo Comitibus Norff. & Hereford. These words immediately follow the other in the Historian, after the word *Londini*.

[8] Ibidem, f. 230. lin. 39.

[9] Ibidem, lin. 57.

Populus in it self signifies neither great nor little People, but only Laity, and therefore as it is used and restrained signifies either the Lay Plebs, or the Lay Magnates. So Clerus sometime signifies the Bishops, sometime the Inferior Clergy. [5] *Biduo post festum Apostolorum Petri & Pauli, missi sunt Duo Cardinales à latere Domini Papæ, ut Regna Angliæ & Franciæ inter se, intestinis Odiis adhuc tumescentia pacificando sedarent: Quos in regno Angliæ applicatos excepit Plebs debito honore, accita per Regem apud Westmonasterium primum & optimatum suorum Caterba, Nonis Augusti.* Here the Plebs were the Kings great and chief Men, that is, his Lay Earls and Barons, which he had called to Westminster, who so honourably received the two Cardinals.

The King and [6] Barons being at some difference about the Observation of Magna Charta and the Charter of the Forest; *Articulos in predictis Chartis Contentos, innovari insuper & observari Rex mandavit, Exigendo pro hac Concessione ab Incolis, octavum Denarium sibi Dari; qui mox Concessus est ei a Plebe, in sua Camera tunc Circumstante; petit etiam à Clero subsidium. Qui Respondit se velle summo Pontifici literas supplicatorias dirigere pro Conferendi Licentia obtinenda.* The Incole here meant by the Historian were the Incolæ Regni, such Inhabitants as used to pay Subsidies and Aids, and the Plebs here mentioned by the Historian were the Lay-Nobility that stood about the King in his Chamber; [7] for upon a Treaty of Peace with the Earl of Flanders against the French King, he had * summoned the Earls and Barons to London, to advise with them about his going over into Flanders with an Army to the assistance of the Earl, and * demanded of his Constable, and his Marshal the Earls of Norfolk and Hereford, a Roll or List of such Horse as should accompany him in that Expedition: they refuse their service, and desire the King to assign some others of his Family to execute those Offices. He did so, and then treated with the other Earls and Barons about an Aid, who urged him to the Confirmation and Observation of the Charters, which he granted, *Exigendo pro hac Concessione, &c. octavum Denarium, qui mox Concessus est ei à Plebe in sua Camera Existente*; [8] The two great Earls absented themselves on purpose, when the Plebs granted this Eighth of their Goods. The King gave the Earls time to consider, and to reconcile themselves, while he supported with this Grant, passed into Flanders to the relief of his Friends that both needed and expected his Relief; and on Bartholomew Eve, on the 23 of August, he set Sail with 500 Ships, 1800 Knights and Horse, and a great Army of Foot. The [9] very same day the two Earls went to Westminster to the Barons of the Kings Exchequer, and prohibited them to levy this eighth Penny of the people of England by the Sheriffs, saying it was granted without their Knowledge, without whose assent Tallage ought not to be imposed. Many of the Earls and Barons Contederated with them, and much people favoured them, so as Edward the Kings Son and his Vice-

gerent

gerent in his absence, renewed the great Charter of Liberties and of the Forest, at London, [1] his Father confirming the same at Want on the fifth of the Ides, or the ninth of November, A. D. 1297. the 25th of his Reign. And that the Agreement for the Confirmation of the Charters here mentioned was made, and the eighth Penny granted by the Earls and Barons, and perhaps the Knights of Shires; and that they were the Plebs which stood about the King in his Chamber, is clear from the Writs of Summons of Parliament for two Knights in every County, dated September the 15th immediately following, to come and receive the Confirmation of the Charters, and his Letters that the paying of this eighth should not prejudice the Commons for the future, and to do further what by his Son and his Council should be ordained.

[1] Ibidem, f. 43r. lin. 8.

Rex [2] Vicecomiti Eborum salutem, quia in Relevationem omnium incolarum & populi Regni nostri pro Octava omnium Bonorum singulorum Laicorum per totum Idem Regnum pro Urgentissima nunc dicti Regni contra Gallicos necessitate levanda Concessimus pro nobis & heredibus nostris confirmare & firmiter teneri facere Magnam Chartam de Libertatibus Angliæ & Chartam de Libertatibus Forestæ, &c. Quod sine Dilatione Dnos de probioribus et Legationibus Militibus Comitatus tui eligi et ad Edwardum filium nostrum Carissimum tenentem in Anglia locum nostrum venire facias ita quod sint London in * Octabis Sancti Michaelis prox. futur. &c. Teste Edwardo filio Regis apud Sanctum Paulum London, Decimo quinto die Septembris. And the Confirmation of the Great Charter bears [3] date October the 12th next following. It is not probable that if the Commons had been at the Agreement, and Granting of the eighth Penny in the Kings Chamber, they would have been dismissed, and called again about the same business in so short a time, seeing the Confirmation of the Charters was dispatched in six days, when the Parliament met October the sixth.

[2] Cl. 25 Ed. 1. m. 6. Dorf. See the whole Writ in Append. Record 3.

* 6th of Oct.

[3] Rot. Stat. Temp. Ed. 1. 2. 3. m. 40.

After the Confirmation of this Charter, and the Earls and Barons seemed satisfied, [4] Concessus est Comitibus Novenarius Denarius à Vulgo, a Clero vero Denus, ad Scotozum pertinaciam reprimendam, who had then invaded Northumberland, and harassed the other Northern Countries. Here Vulgus is the same with Populus & Plebs, when they opposed to Clerus, or joyned with it as a distinct Body of Men, and Clerus et Populus, Clerus et Plebs, Clerus et Vulgus, are the Clergy and Laity, in the meaning of this Historian, whether the Earls and Barons alone, or the Temporal Earls and Barons with the Commons were understood by them.

[4] Mat. Westmon. f. 431. n. 10.

Clerus & Vulgus signifies the Clergy and Laity.

Dominica secunda Quadragesimæ, [4] citatis Magnatibus Regni ad Westmonasterium, fecit Rex recitari, formam pacis Bullatam per Papam Bonifacium, tanquam Arbitrum inter Regem Angliæ et Franciæ Ordinatum, et alias Bullas statum suum tangentes. Cui Assensum præbuit Plebs omnis et Clerus. Quo facto pertierunt Comites, Barones et Prælati ut Magnam Chartam de Libertatibus, &c. Ratificaret. Here 'tis plain Plebs signifies Laity, and that the Temporal Barons were therein comprehended.

[4] Ibidem, n. 40. 50. A. D. 1298. 26 Ed. 1.

In the morrow after Holy Trinity, in the 34th year of his Reign, King Edward the first made his Son Knight, and [5] pro hac Dilitia filii

[5] Ibidem, f. 55. lin. 5.

[6] *Inter Com-
mania Brevia
de Termino
Sanctæ Trinita-
tis Anno Regni
Regis Ed. I. 34.
penes Remem.
Thes. in Scac.
See Append.
Record 4.*

*filiis Regis Concessus est Regi Trigesimus Denarius à Populo et Clero ;
Mercatores vero Vicesimum Concesserunt.* It is evident upon [6] Re-
cord who were the **Populus**, or People intended by the Historian in
this place, to wit, the **Comites**, **Barones**, *et alii Magnates, necnon
Milites Comitatum* : For it appears by that, that they all Treated to-
gether, and apart from the Citizens and Burgesses, and gave the King
a *Thirtieth* part of their Goods, who therefore must be the **Populus**
here meant. And it also appears by the same Record, that the **Ci-**
tizens, **Burgesses**, and **Dominici Regis**, treated apart by them-
selves, and gave the King a *Twentieth* part of their Moveables. *Ci-
ves quidem ac Burgenses Civitatum ac Burgorum ac ceteri de Dominicis
Regis Congregati, et super præmissis tractatum habentes. Considerantesq;
onera Domino Regi incumbencia ut præmittitur, eidem Domino Regi una-
nimiter Concesserunt ob causas supra dictas, vicesimam partem bonorum
suorum Mobilium, &c.* These were those whom the Historian calls
Mercatores, who gave the King a twentieth part, &c.

[7] *Fitz-
Steph. P. 4.
Col. 2.*
[8] *Ibidem,
P. 7. Col. 1.*

Fitz-Stephen speaking of **Thomas Becket** when he was Chan-
cellor of **England** under **Henry the Second**, hath these passages, [7]
Cancellarii summus erat in Clero, Militia, et Populo favor. [8] *Can-
cellarius erat, Regi, Clero, Militia, et Populo acceptissimus.* The
Chancellor was most acceptable to the King, **Clergy**, **Militia**, or
Military-Men, (which then comprehended all the Nobility, great
and small, **Earls**, **Barons**, **Knights**, **Esquires** and **Gentlemen**) and the
People : In both these places **People** signifies the ordinary Lay-men;
and the particularity of its signification, is always known by the
words joyned with it, and the true understanding of the Matter
wherein the word **Populus** is used, which can never be discovered
by the meer sound of it.

Communitas

Communitas Regni, Tota Terræ Communitas, Regni totius Communitas, Universitas Regni.

A **T**HE *Communitas Terræ*, &c. is and hath been of late years, nay it may be for some Centuries of years, taken for the ordinary People and Freeholders, or at best for Knights and Gentlemen under the Degree of Barons; and as if they were the Community of the Land, and had been always so esteemed: But antiently the Barons only, and Tenants in Capite, or Military Men, were the Community of the Kingdom, and those only meant, taken, and reputed as such in our most Ancient Historians and Records.

Communitas Terræ not the ordinary People.

B **H**ugo [9] Bigotus, Capitalis Justitiarius Angliæ, Associatis sibi Rogero de Curkebi, & Gilberto de Preston, Cæpit per Angliam Circuire, à Comitatu in Comitatum, & à Libertate in Libertatem omnibus pro meritis impensurus Justitiam, qui quidem in Anglicanis Legibus periti in Exercendis Judiciis Justissimis, præ omnibus aliis à Communitate Terræ, ad hoc Deputantur Idonei. These Itinerant Justices were chosen by the Community of the Land, which Community could be no other than the Barons: for at this time they, according to the Oxford Provisions, did chuse the Justices, Chancellor, Treasurer, and all other Ministers and Officers, both Military and Civil, and had by themselves and Friends the Custody of all the Kings Castles.

[9] Mat. Westm. f. 367. n. 10. 20. A. D. 1259. 43 H. 3.

C **R**ichard de Gray Constable of Dover, [1] Custos Portuum ab Universitate Terræ Constitutus; The Barons the year before, viz. A. D. 1258. 42 of Henry the Third, had made him Governour of Dover Castle, not long after the Provisions made at Oxford, and he was by them constituted Warden of the Cinque Ports, who in this place are called the Universitas Terræ; Castellanus de [2] Dover, Richard de Gray vir fidelis & strenuus, qui ex parte Baronum ibidem Constituebatur, &c. In both these places no other Persons than the Barons can be understood, by the Communitas Terræ, and Universitas Terræ, who according to the Oxford Provisions made A. D. 1258. named all the Officers in the Kingdom.

[1] Ibid. f. 69. n. 30. A. D. 1259. 43 H. 3.

[2] Mat. Paris, f. 973. n. 40.

E **I**n the Reign of Richard the First, Mat. Paris [3] speaking of Earl John the Kings Brother, his calling together the two Archbishops; all the Bishops, Earls and Barons, about Deposing William Bishop of Ely the Chancellor, he delivereth himself in these words, Comes cum Archiepiscopis, Episcopis, Comitibus, & Baronibus in Capitulo Sancti Pauli Convenerunt, &c. ubi assensu Communium diffinitum est, &c.

[3] F. 166. n. 30

F **A**nno Regni Regis Henrici tertii 42 [4] Provisio Ordinatum fuit, ut quia idem Regnum Reformatione multiplici sui status Egebat, dictus Rex pro se 12 personas de Regno, & Tota Terræ Communitas alios 12 providerent, quia Regia potestate suffulti totius Regni curam susciperent, & de Justiciariis, Cancellariis, Thesaurariis, & ceteris Officialibus, ac ministris Eligendis, ab Anno in Annum in perpetuum providerent, ejus Castra per se & suos facerent Custodiri. And upon Record it appears, that this Tota Terræ Communitas was the Barons, or the Proceres & Magnates, which were the same.

[4] Mat. Westm. f. 391. lin. 2. &c.

Tota Terræ Communitas were the Barons Proceres & Magnates.

[5] Pat. 42
Hen. 3. m. 10.
pro Rege &
Baronagio Angl.

*Rex omnibus, &c. [5] Noveritis nos Concessisse Proceribus & Magnatibus Regni nostri Juramento in Animam meam per Robertum Male-
rand prestitum, quod per 12 fideles de Consilio nostro jam electos, & per
alios 12 fideles nostros electos ex parte procerum ipsorum qui apud Oxon.
à festo Pentecost. prox. futur. in unum mensem convenient. Ordinetur,
Rectificetur, & Reformetur status Regni nostri, &c. dat. apud West-
mon. 2 die Maii.* First in this Record, as in the Margin, we see it
was *pro Rege & Baronagio*, for the King and the Baronage. Se-
condly, we see to whom the King made the Grant, That he would 12
Persons, &c. that is, to *Proceres & Magnates Regni*, to the great
Men of the Kingdom. Thirdly, we see to whom the King consented,
that they should chuse other 12, by which 24 the Kingdom was to
be reformed; and they were the *Ipsi Proceres*, the very same great
Men first mentioned. Lastly, we see that the Record, and what the
Historian delivers, was about the Business and very Matter; so that
there can be no doubts but the *Tota Terræ Communitas* in the
Historian, and the *Baronagium* or *Proceres & Magnates Regni* in the
Record, were the same Persons.

Note, That *Easter-Day*, A. D. 1258. 42 of Henry the Third, was
on the 24th of March, and *Whitsunday* on the 12th of May; so that
Barnaby-day that year upon which the Barons met at Oxford, and
made those *Provisions* called *Oxford Provisions*, was just a month after
Whitsun-Tuesday; and agrees for time with this Record.

Sometimes all
*Tenents in Ca-
pite* under
great Barons
were called
Community of
the Kingdom.

Sometimes the *Comites, & Barones Majores* alone, such as were
Earls, and great *Barons*, are called the *Baronage of England*, and
by way of eminency, *Proceres & Magnates*; but most frequently
these, with all other *Tenents in Capite*, did make the whole Body of
the *Kings* immediate *Tenents in Military Service*, and were all toge-
ther called the *Baronage of England*, the *Community of the Land*,
or *Community of the Kingdom*: Yet many times the *Earls* and great
Barons are distinguished in our Ancient Historians and Records from
the less *Barons* or *Tenents in Capite*; and these last in contra-distincti-
on to, and in respect of the first are called the *Community of the
Kingdom*, or *Nation*. So in *King Johns Magna Charta*, the *Earls*
and great *Barons* were to be summoned to great *Councils*, or *Parliaments*
by particular Writs, that is, every one had a particular Writ of Sum-
mons sent to him; and the other *Tenents in Capite* were all summoned
by one general Writ, and by the Sheriff of every County, to whom
that general Writ was directed, and sometimes the greatest and most
considerable of these were called *Proceres & Magnates*.

[6] Pat. 48
Hen. 3. m. 2.
Dorset. n. 14.

In the 48 of Henry the Third, when Montfort had the King under
his power, [6] the Greivances of *Holy Church of England* were to
be considered, and the Injuries done to her in the time of the Troubles
redressed; and three *Bishops* were to be chosen, *per comun assentment
du Roy & des Prelats, des Countes, & des Barons de la Tere*, by the
common assent of the *Prelates, Earls and Barons of the Land*. To
whom *soit done plein poer du Roy, e de la Comunante des Contes, &
des Barons, & des Graunz homes de la Tere*, should be given full Power
from the King and the *Community of the Earls, and Barons and of the
great Men of the Land*, to provide and order things necessary and pro-
fitable

fitable for the full Reformation of the State of Holy Church, to the Honour of God, and the Faith of the Lord the King, and the profit of the Realm. *E ceo soit premis en bon foi, par le Roy, & par les Contes, e les Avandits Barons, & par les autres Graunz Homes de la Tere.* And so it was determined in good faith by the King, and by the Earls and the foresaid Barons, and the other great Men of the Land: The other great Men of the Land were great *Tenents in Capite*, that were

A

In a [7] form of Peace, reciting an Ordinance made in a Parliament at London about Midsummer in the 48 of Henry the Third, it is said thus, * *Hec est forma pacis à Domino Rege, & Domino Edwardo filio suo Prelatis & proceribus omnibus cum Communitate tota Regni Angliæ Communitè & concorditer approbata, Videlicet, quod quedam ordinatio facta in Parlamento London habito circa festum Nativitatis Johannis Baptiste proximo præterito, pro pace Regni conservanda, &c.* which form concludes thus, *Actum in Parlamento London, mense Junii A. D. 1264.* which was the 48 of Henry the Third.

B

[7] Rot. Pat.
48 Hen. 3.
m. 6. Dors.

* Vide Record
5.

This form and Ordinance here said to be unanimously approved by all the Prelates and great Men, with the whole Community of England, (that is, Bonfort and his Faction with such Trimmers as complied with them) was made by them; For most certainly the King would never cause such an Ordinance or form of Peace to be made and propounded to them as would un-King himself; the sum whereof was that three Men should be *nominated* or *chosen*, who should have Power and Authority from the King, to *chuse* or *name* Nine Counsellors, of which three should always be with the King, and he by their Advice should Order and Dispose of the Government of his Castles and Forts, and all other Business of the Kingdom; and also by their Advice should chuse his Judges, Chancellor, Treasurer, and other Officers great and small, either of the Court or Kingdom, and when any of these nine were to be removed, and others chosen, it was to be done by the Advice of the first three Electors, & *si videatur Communitati Prelatorum & Baronum Concorditer Expedire, &c.* And if it should seem Expedient to the Community of Prelates and Barons, to have all or one of the three first nominated or Elected removed, and others put in their places, *Dominus Rex per Consilium Communitatis Prelatorum & Baronum alium vel alios substituat.* The King was to substitute another or others, by the Counsel of the Community of the Prelates and Barons.

D

E

Here Community refers only to Prelates and Barons.

Mathew [8] of Westminster makes it more plain what the *Tota Communitas Regni*, the whole Community of the Kingdom was that made this Ordinance, *Convenientibus Londini Prelatis, Comitibus, Baronibus, partis illius, qui Regem suum tam seditiosè tenuit Captivatum, Compromissi Lewensis, &c.* Statuentes quod duo Comites & unus Episcopus (which were the Earls of Leicester and Gloucester, and Bishop of Chichester) *ex parte ipsius Communitatis Electi, novem personas eligerent, &c.* The Prelates, Earls and Barons of that Party that seditiously

F

[8] F. 394.
lin. 3.

seditionously kept the King Prisoner, met at London, and unimindful of the *Compromise* at Lewis, determined that two Earls and one Bishop to be chosen on behalf of, or by that Community, should chuse *Mine*, &c. We see here the *Tota Communitas Regni Angliæ*, in the preamble to the Ordinance upon Record, was the same with the Community in the *Historian*, and they were the Community of Prelates, Earls and Barons, &c.

The Battle of Lewis where the King was taken prisoner, was fought May 19th 1264. in the 48 year of Henry the Third, and this Ordinance was made at London in June following after *Midsummer* day, as a short Draught of an Agreement, or form of peace, as they called their own Impositions upon the King, until a larger was drawn up, finished and Ratified; which large form of Peace, is Dated the Day before the *Vigil* of St. Gregory, that is on the 10th of March following, in which the Ordinance and form of Peace above mentioned is confirmed, and recited *verbatim*, except the preamble, and bears the Title of *Forma Pacis inter Regem & Barones* in the Margin of the Roll. *Le ordenem nt qe fu purven ò [9] Londre par Comun accord des Prelats & des Hauz Hommes de la Tere, qe la furent en mois de Jun lan nostre Seignor le Rois XL utime soit fermement Garde e maintenu en form qe il estoit purven, qe est icele.* By this Record it appears that the *Tota Communitas Regni Angliæ*, the whole Community of the Kingdom of England, by whose common accord the Ordinance was made at London in the Month of June preceding, in the 48 year of Henry the Third, were the Prelates, and the Hauz Hommes, that is, the great Men of the Land, or Men of High Condition. Hitherto the Prelates, Earls, and Barons, or the Prelates, and Great Men, or the Prelates, and Hauz Hommes, Men of High Condition by Record and History, have appeared to be the Community of the Kingdom.

In the first Paragraph of this Record, after the Recital of the Ordinance made at London, &c. *E qe cest Ordonement soit Mieux Garde, nostre Seignor le Roi, doit comander e enjoindre, e Monsieur Edward assentir e Requere as Hauz Hommes, e au Comun de la tere, par lur Lettres Overtes qe demorrent in Chescun Conte qe cest Ordonement fermement tenguent.* And that this Ordinance may the better be observed, our Lord the King shall command and enjoyn, and Mounseur Edward Assent and Require, the Great Men, (that is, the Bishops, Earls, and Barons) and the Commons of the Land, by their Letters Patents, which are to remain in every County, that they firmly keep this Ordinance. In one of these Letters Patents, or Charts, sent into *Yorkshire*, it is evident, that the Prelates, Earls, Barons, and Community of the Kingdom, and the Prelates, Earls, and Barons, without those words, the Community of the Kingdom, signified the same thing, or that the Community of the Kingdom signified very little, if any thing, as to the Transacting of Publick Affairs in those days.

Rex [1] omnibus de Comitatu Eborum salutem. Cum propter hostilem Turbationem habitam in Regno nostro de unanimi assensu & voluntate nostra & Edwardi filii nostri Primogeniti, Prelatorum, Comitum, Baronum, & Communitatis Regni nostri, pro Regni ipsius pace, pro cuius securitate dictus Edwardus, & Henricus filius Regis Alemannie Nepos noster obsides dati fuerunt concorditer sit provisum quod quedam Ordinatio

[9] Rot. Cart.
49 Hen. 3. m. 5.
In Append.
Record. 6.

[1] Rot. Cart.
49 Hen. 3. m. 4.

tio de unanimi assensu nostro, Prælatorum, Comitum & Baronum Prædicatorum super nostro & Regni nostri statu. London mense Junii Anno Regni nostri 48^o facta inviolabiliter observetur. Here the *Prælati, Comites, & Barones prædicti*, must be the same with the *Prælati, Comites, Barones, & Communitas Regni*, immediately preceding, or the *Communitas Regni*, had nothing to do in making the Ordinance at London in the Month of June concerning the State of the Kingdom, and yet in the preamble of it 'tis said they had.

A little further in the same Record 'tis said, The King and his Son Edward swore, and the great Men, and the Commons of the Land by the Kings Command, and the assent and request of his Son, swore to do and keep these as aforesaid. *E nostre Seigneur le Roi e Monsieur Edward unt Jure sur les seintes Evangelist, e les Hauz Hommes, e le Commun de la tere Jurront par Comandment nostre Seigneur le Roi, e par l'assentment e la Request Munfir Edward, ices choses à fere e à tenir si com il est avantdit:* And then it follows, That if any Man do disturb the Peace of the Nation, or do any thing contrary to this form of peace, or assist the King and his Son in doing any thing contrary to it, &c. Then he and his Heirs, shall be for ever disinherited as if they were convicted of Felony; and the next words in this same Record are *e ceste Chose est fermement Establi par le Roi & Munfir Edward, e par le * Commun de la Tere.* And this was firmly established by the King and Monsieur

Edward, and by the Commons of the Land. Here 'tis said that the King, his Son Edward, and the Commons of the Land only made this Establishment. Can any Man think that the Prelates, Earls, and Barons were not present and consenting to the making of this part of the form of peace? 'Tis said in the [2] Charts or Letters Patents directed to the County of Middlesex for the Observation of both by King Henry and Prince Edward his Son, that *De unanimi nostro assensu, Edwardi filii nostri, Comitum, Baronum, & Communitatis Regni provisum & Statutum est, &c. & quod ipse, & heredes sui in perpetuum Exheredentur, & de Terris & Tenementis eorum fiat, prout de Terris eorum qui pro Felonia Convicti sunt.* So we see that in this part of the Record, *Commun de la Tere*, or Community of the Land comprehended the Prelates, Earls, and Barons, and in other parts of it, the Prelates, Earls, and Barons, were mentioned as the Community of the Land.

It follows in the same form of peace between the King and Barons. *E les Articles qe estoient despeca porvenes par Accord nostre Seigneur le Roi e dez * Hauz Hommes de la Tere les queus nostre Seigneur le Roi, nadgeres quant il estoit à Worcester envoia par toz les Contees de souz son seel sont fermement tenez, &c.* And that the * Articles made by Accord of the King and the Hauz Hommes of the Land, the which the King when he was lately at Worcester, sent into all the Counties under his Seal that they might be firmly observed. The Hauz Hommes here mentioned are rendred in Latin *Magnates* in the fore-cited Letters Patents of both father and son for the observation of this form of peace. *Et omnes Articuli de nostro & Magnatum terræ nostræ Communi assensu dudum provis quos nuper apud [3] Wigorniam Existentes per singulos Comitatus sub sigillo nostro transmissimus inviolabiliter observentur.*

* In this place Community of the Land signifies the Bishops, Earls, Barons and great Men, or these establishments were made without them, which is a contradiction to both these Records. [2] Rot. Cart. 49 Hen. 3. Community of the Land comprehended Prelates, Earls and Barons.

* Hauz Hommes the same with Magnates.

* These Articles were dated at Worcester, Dec. 13. A. D. 1264. 49 of Hen. 3. and do contain a great part of the Law of England, as it then was.

[3] Rot. Cart. 49 Hen. 3. m. 4.

Again

Again, it was agreed in the same form of Peace, that the King, nor his Son **Edward** should bring any strangers into the Nation, without the assent of the Kings Council, or other discreet and knowing Men of the Land. *Derechef qe nostre Seignor le Roi ne Munsr Edward ne atreent mie Genz aliens en la Tere si ce ne soit par Accord du Conseil le Roi e des autres Prodes Hommes de la Tere.* The **Prodes Hommes** must be the same with discreet and knowing *Fideles* or *Magnates*, and they were for rank, degree, and order, such as were of the Kings Council, (and not ordinary Men) for 'tis here said with relation to them, *E des Autres prodes Hommes de la Tere*, and other **Prodes Hommes** of the land. And the Kings Council here meant, were Nine of the greatest Persons which were most fixed and resolute in the Rebellion of **Montfort** and his *Confederates*, and were chosen by three such as themselves, as is clear beyond all Caviel, from the expresse words of the form of Peace made in the month of June at London, in the 48 year of **Henry** the Third, A. D. 1264. here recited in this French Record. *Ad Reformationem Status Regni Eligantur seu nominentur tres Discreti viri & Fideles de Regno qui habeant potestatem & auctoritatem à Domino Rege Eligendi seu Nominandi vice Domini Regis Consiliarios Nobem, &c.* These *Tres Discreti et Fideles*, three discreet and well affected, (who were **Montfort**, the Earl of Gloucester, and the Bishop of Echester, three of the prime Rebels at that time) do answer exactly to the **Prodes Hommes** in this French Record, which being a corruption of the French *preuds Hommes*, signifying *Valiant, Hardy, Courageous, Faithful, Discreet Men*, for so did **Montforts** Party and Faction call themselves, as our late *Mescreants* called themselves the *Sober Godly Party*, and the *Well-affected*.

Here is enough said to satisfie any reasonable Man, what the Community of the Kingdom was, and that the **Hauz Hommes**, and **Prodes Hommes**, often found in our old French Records, were at least part of, if not the same with that Community. But to put the matter beyond all doubt and Exception, I will Confirm what I have said about the Community of the Kingdom by other plain Records.

[4] See the whole Record in the Answer to Mr. Petyt, f. 149. A. De intendendo Collection. Auxilii.

The [4] first is Pat. 30. **Edward** 1. M. 1. *Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus & omnibus aliis de Comitatu Cantiae salutem, Sciatis quod cum primo die Junii Anno Regni nostri Decimo Octavo, Prelati, Comites, Barones & Ceteri Magnates de Regno nostro concorditer pro se & Tota Communitate ejusdem Regni in pleno Parlamento nostro nobis Concesserint, Quadraginta Solidos de Singulis feodis Militum in Dicto Regno in Auxilium ad primogenitam filiam nostram Maritandam, &c. Cujus quidem Auxilii levationi faciendae pro Dicta Communitatis assiamiento hucusque supersedimus gratiosè, &c.* The King to Archbishops, Bishops, Earls, Barons, Knights, and all others of the County of Kent, Greeting. Know ye, That on the first day of June, in the 18 year of our Reign, the Prelates, Earls, Barons, and the rest of the great Men of our Kingdom, by one Assent for themselves, and the whole Community of the same Kingdom, granted to us Forty shillings of every Knights Fee in the said Kingdom for an Aid to Marry our Eldest Daughter, &c. which Aid we have hitherto graciously forbore to Levy for the Ease of the said Community, &c. By this Record it is very clear, that such as paid Scutage, that is, Forty Shillings for a Knights Fee, were the *Tota Regni Communitas*

The Tota Regni Communitas paid Scutage.

Communitas, and no others: And of these the *Tenents in Capite* granted and paid it first for themselves and Tenents, and then their Tenents in Military Service, by virtue of the Kings Precept paid it to them for so many Fees as they held of them, as hath been sufficiently evinced by Record in the *Answer to Mr. Petyt*, f. 121. B. C. D. &c.

A The [5] second is a Record in the *Exchequer*, by which it appears that the King summoned a *Parliament* in the 34th year of his Reign, to meet in the Morrow of the *Holy Trinity*, about an Aid for making his Son Knight, and assistance against *Robert Bruce*, who had raised forces against him in *Scotland*. And the *Prelates*, *Earls*, *Barons*, and other great Men, as also the [* *] *Knights of Shires* treating together with deliberation upon this Matter, considering the Aid was due, and the Burthen that lay upon the King by reason of the Scotch War, at length they unanimously *Domini Regi concesserunt pro se & Tota Communitate Regni tricesimam partem omnium Bonorum suorum Temporalium Mobilium*, for making his Son Knight, and toward the Expences of his War in *Scotland*. And then *Cives & Burgenses Civitatum ac Burgorum ac ceteri de Dominicis Regis Congregati*; and treating about the Premises, considering the Burthens lying upon the King, (not mentioning any Aid for making his Son Knight, as not holding of the King by *Knights Fee* or Service, and therefore none of the Community of the Kingdom, nor liable to it) *eidem Domino Regi unanimiter ob causas supra dictas vicesimam partem bonorum suorum Mobilium*; Granted to the King the Twentieth part of their Moveables. Here the *Prelates*, *Earls*, *Barons*, and Great Men, with the *Knights of Shires*, Consulted together, and gave for themselves, and the Community of the Kingdom, a Thirtieth part of their Goods; and the *Citizens*, *Burgesses* and *Tenents* of the Kings Demeasns, which were none of the Community of the Kingdom, gave a [*] Twentieth part: For if they had been of the Community, they had paid no more than a Thirtieth part, that is, a third less than a Twentieth. And therefore 'tis most certain at this time they were not taken to be part of the Community of the Kingdom, unless they paid both a Twentieth and Thirtieth part of their Goods; and that the *Tenents in Capite*, *Serjeants*, or at least the *Military Men*, and *Tenents in Military Service*, were only such.

[5] See it here in the Append. Record 4.

E And [6] this is confirmed by another Record of the 35th of this King, for the Collecting of this Thirtieth and Twentieth part: *Rex Militibus, liberis Hominibus, & Toti Communitati Comitatus Middlesex tam infra libertates quam extra, salutem: Cum Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones, Milites, Liberi homines, ac Communitates Comitatum Regni nostri Tricesimam omnium Bonorum suorum temporalium Mobilium, Civesque, & Burgenses, ac Communitates omnium Civitatum, & Burgorum ejusdem Regni, necnon Tenentes de Dominicis nostris Vicesimam Bonorum suorum Mobilium, &c. Curialiter Concesserint et gratanter, &c.*

[6] See Appendix. Record 7

F [* *] The only reason why the Knights of Shires treated together with the Bishops, Abbats, Priors, Earls, Barons and great Men apart from the Citizens and Burgesses, in granting Taxes, was because they all were of the same Order, that is, *Tenents in Capite*, though not of the same Degree, viz. all Earls and great Barons or great Men, that is, the greatest of those Men that were not great Barons, or the greatest of the *Barones Minores*, the lesser Barons.

[*] It was usual in those times for the Citizens and Burgesses to grant a third part more than the Earls, Barons, and Knights of Shires: probably the reason might be, because they performed not Military Service, nor paid Scutage.

It's said in this Record the *Archbishops, Bishops, Earls, Barons, Abbats, Priors, Knights and Freemen*, and *Communities of Counties*, gave a Thirtieth part of their Goods, as if they were all Members, and late in this *Parliament*: And so it is said of the *Cities and Burghs*, that the *Citizens, Burgeses*, and the *Communities of the Cities and Burghs*, gave a Twentieth part of their Moveables as if they had been all there. But these words signifie no more, than that the *Knights and Freemen* gave by their *Representatives*, and that the *Communities of Counties*, and the *Citizens and Burgeses*, and *Communities of Cities and Burghs* gave by their *Representatives*, as is most clear from the Writ of Expences for the *Knights of Lincolnshire*, [7] *Rex Vicecom. Lincoln salutem. Precipimus tibi quod de Communitate Comitatus tui tam infra Libertates quam extra habere facias dilectis & fidelibus nostris Johanni de Debill & Ranulpho de Friskenev Militibus ejusdem Comitatus nup r ad nos pro Communitate predicta usque Westminster de Mandato nostro venientibus ibidem, nobiscum super quibusdam negotiis nos & Statum Regni nostri specialiter tangentibus tractaturis Rationabiles Expensas suas in veniendo ad nos, ibidem Morando & exinde ad propria redeundo, prout alias in casu Consimili fieri consuevit. Teste Rege apud Westmon. Tricesimo die Maii.* The 30th of May was this year 1306. *Cras Trinitatis*, Easter-Day being April the third. This Parliament was summoned to meet [8] *Crastino Trinitatis*, on the Morrow after Trinity, so as they dispatched the Business they met for in less than one day; and besides the Date of the Writ for Expences that proves it, *Barth. Westminster* says all the Military Men took their leaves of the King that day, and promised to be with him in Scotland fifteen days after St. John Baptist, [9] *Exinde omnes salutato Rege, in Crastino Trinitatis à Westmonasterio recesserunt, ad Regem in Quindena Sancti Johannis Baptiste in Scotiam affuturi.*

At his Coronation Edward the Second was asked this Question; [1] *Sire, Grante vous à tenir & Garder les Leyes & les Customes Droiturels les quieles la Comunaute de Vostre Roiaume aura Eslu, & les Defendres, & afforcerez al honneur de Dieu à vostre poer?*

He answered upon Oath, *Jeo les Graunte, & Promette.*

In this Roll is set down the whole manner of Edward the Second's Coronation: The three great Earls, Thomas of Lancaster, Sup of Warwick, and Henry Lacy of Lincoln, who were very popular, pretending to do wonderful things for the Liberty and Freedom of the Laity, carried three Swords before him, and Thomas of Lancaster the Sword called Curtana, &c. And it follows in the close of all, *Ita fuerunt verba Regis in Coronatione predicta, sub Juramento prestituto ut patet in Cedula annexa*; so were the Kings words at his Coronation under Oath, (never in the same form and words given to any King before, nor perhaps ever since.) The first thing asked him was, *Sire, voutez vous Granter & Garder & per vostre Serment Confermer au Peuple de Angleterre, les Leyes & les Customes a eux grantees par les aunciens Rois d'Engleterre, vous Predecessors Droiturs Devotz à Dieu, & nomement les Loys, les Customes, & les Franchises Graunte au Clergie & au Peuple par le glorieux Roi Edward vostre Predecessor?* Sir, Will you grant and keep, and by your Oath confirm to the People of England, the Laws and Customs granted to them by the Ancient Kings of England your Predecessors, true and devout to God, and namely the Laws, and Customs and Franchises granted to the Clergy and People by the Glorious King Edward your Predecessor.

Respons.

[7] Claus. 34
Ed. 1. m. 11.
Dors.

[8] See the
Writ of Sum-
mons, Cl. 34
Ed. 1. m. 15.
in Cedula.

[9] F. 455.
lin. 3.

[1] Claus. 1
Ed. 2. m. 10.
Dors.

Respons. Jeo les Grant & Promette. I Grant and Promise.

Sire, Garderez vous à Dieu & Sainct Eglise, & au Clergie & au Peuple pacs & accord en Dieu entièrement solonc vostre poer? Sir, will you keep to God and Holy Church, and to the Clergy and People Peace and Accord in God intirely according to your power?

Respons. Jeo les Garderai. I will keep them.

A *Sire, Freez (or perhaps rather) feres vous fair en touz voz Jugements ove le Droit, Justice, & discretion en misericorde & verite à vostre poer?* Sir, Will you suffer all your Judgments to be done with Right, Justice, and Discretion, in Mercy and Truth to your power?

Respons. Jeo le Frai, I will do it.

B The last question put to him, was, that which I first mentioned, and is thus truly Rendred in English. Sir, Do you Grant to hold the just Laws and Customs which the Community of your Kingdom shall have chosen, (the words *aura Esu* cannot fairly be otherwise translated) and them defend, and inforce, to the Honour of God according to your power?

Answer. I Grant and Promise.

C The Community here intended, was the Community of *Bishops, Abbats, Priors, Earls, Barons, great Men*, and the whole Body of the *Tenents in Capite*, expressed by those words in the former Questions Clergy and People. For by them these Demands were made, and no doubt but they would first for themselves; for the *Vulgus*, Multitude or Rabble, could not come near to make their Demands at such a Solemnity as this was, so great and splendid; there being at it [2] Charles, and Lewis Earl of Clermont, two of the King of France his Brothers, the Duke of Brabant, the Earl of Fens, and the other great Men both of France and England, with the Countess of Artois.

[2] Walsingh.
f. 95. n. 20.

E And that the *Comunaute de Roiaume*, the Community of the Kingdom, did still continue to be such persons as above mentioned, is clearly proved by this Record. *Rex. [3] dilectis & fidelibus suis Vicecomiti Wygoznie Thome Botiller de Upton super Sabrinam Militi, & Thome Catly de Wyth, salutem. Sciatis quod cum in pleno Parlamento nostro apud Westmonasterium ad Diem Lune proximo post festum Nativitatis Beate Marie virginis proximo præteritum tento, Prælati, Comites, Barones, & Ceteri Magnates de Regno nostro Angliæ, &c. pro se, & tota Communitate ejusdem Regni nobis Concesserint quadraginta solidos de singulis feodis Militum in Dicto Regno Angliæ, &c.* The whole Community of England in this Record were. * Military Men, such as held Knights Fees, or parts of Knights Fees, and such as paid Scutage, and they were neither the Ordinary Freeman, or Freeholders, nor the Multitude, nor Rabble. F Though the words *les Leyes & les Customes, les quies la Comunaute aura Esu*, have been very ignorantly rendred, *Leges & Consuetudines quas Vulgus Elegerit*, to the great Confusion and Mischief of this Nation in the beginning of the late Troubles, as they were made use of and interpreted by malicious, ignorant, and desperate Men, as will be shewn in the discovery of the meaning of the next words.

[3] Rot. Fin.
20 Ed. 3. m. 7.
See Append.
Record 8.

* Circa festum
Sancti Michaelis
Hastiludium
Commisum est
apud Brakele
ubi multi de
Militibus uni-
versitatis Reg-
ni, qui se vo-
lunt Bachelarios
appellari
contriti sunt
Paris, f. 768.
n. 50. A. D.
1219.

Elected, Election, Electus, Electio, Elegerit.

Leges & Consuetudines quas **U**lgius **E**legerit, as les *Leyes & Customs les quieles*, la *Communaute* aura *Estu*, the words in the *French Record*, cl. 1 Ed. 2. M. 10. are commonly Translated. Mr.

* In his Book of Treachery and Disloyalty, &c.

* *Pryn* and the popular men would have *Elegerit* here to be in the future tense, and have it signifie *shall chuse*, and so as to bind the King as he could not refuse such Laws as were offered him by the *Parliament*, (for so he would have *Ulgus* signifie) and by these almost only words to prove the King had no *Negative Voice*. Others say the King was bound before this to ratifie the Laws the people *propounded*, and so they erect and place a *Soveraignty* in the people, which they would have to be the *very Ulgar*. But 'tis impossible Mr. *Pryn's* sense of *Elegerit* can ever be allowed, for the Original words aura *Estu*, can fairly admit of no other Rendering than, *shall have chosen*, that is, such *Laws* and *Customs* as they had already chosen, and for those that would have it in the *Option* of the *Ulgar* to propound Laws to our King which they *Could* not *Deny* to confirm, they never looked further than these words, nor never understood them. For aura *Estu* here signifies no more then that the *Community* had received such Laws from the *Ancient Kings*, and owned, and submitted to them, and that they were such as they asked, and by way of demand, or rather *Proposals*, requested him to observe and keep; and this meaning of the words doth most naturally arise from the first question by way of *Proposal*. Sir, Will you Grant and keep, and by your Oath confirm to the people of *England*, the *Laws* and *Customs* Granted by the *Ancient Kings* of *England*, your *Predecessors*, just and devout to God, and namely the *Laws* and *Customs* and the *Franchises* Granted to the *Clergy* and people by the glorious *King Edward* your *Predecessor*? 'Tis plain from these words that they do acknowledge to have *had* and *received*, their *Laws*, *Customs*, and *Franchises* from the *Kings* of *England*; and the words aura *Estu* signifie no more, than that the King would hold, keep and defend such *Laws* and *Customs* as the *Community* of the *Realm*, had *chosen*, that is, *owned*, *submitted* unto, and *Desired* still to *use*. And whatever practices by use time out of mind, have grown into *Customs*, for the better management of affairs, and conveniency between Man and Man, (for that's the foundation of all *Customs*) all the *Nation* over; or in any particular *County*, *Hundred*, *Town*, *City* or *Burgh*, without intrenchment upon the *Government*; have by permission or sufferance become *Laws*, it is nothing to the purpose of our present matter, as having never been presented to the King; for had they been so, and received his *Fiat*, they had been *Laws*, by his *Concession*, and no *Customs*.

Election only a submission or acknowledgment.

[4] Gervas. in Act. Pont. Cantuar. Col. 1653. lin. 7.

[5] Order. vit. f. 519. A.

Lanfrancus [4] *Ecclesiam Cantuariensem suscepit regendam, Eligentibus eum senioribus ejusdem Ecclesie cum Episcopis & Principibus, Clero & populo Angliæ in curia Regis in Assumptione sanctæ Mariæ; Cathedra Cantuariensis.* [5] *Lanfranco Cadomensium Abbati decreta est, Regis & omnium optimatum benevola Electione.* As to the *Seniors* of the Church *chusing* *Lanfranc*, they did by order and direction from *William*

William the Conqueror, and their proceeding no other than it is now by the Chapter of other Churches upon a *Conge de Eslire*, they could not refuse him. And for the *Bishops* and *Noblemens* choosing him, they only owned and submitted to him, or liked him; and were satisfied with the person. And that it was so, we have these Authorities, **Florence of Worcester** [6] says, *Rex de Normannia accito Lanfranco Cadomensis Abbate, Die Assumptionis sancte Mariæ Archiepiscopum constituit Cantuariensis Ecclesiæ, & in festo Sancti Johannis Baptiste Consecrari fecit Cantuariæ.* The King called **Lanfranc** Abbat of **Caen** out of **Normandy**, appointed him to be **Archbishop** of **Canterbury**, and made him be Consecrated on the Feast of **St. John Baptist**. The same words hath **Simon of Durham**, Col. 202. n. 50. and **Hoveden**, f. 260. a. n. 10. and **Ralph de Diceto**, Col. 483. n. 10. also **John Brompton**, Col. 968. n. 40. **Malmsbury** to the same effect, [7] *A Willielmo Rege Lanfrancus Cadomensis Abbas ad Archiepiscopatum Electus est*, notwithstanding he had no Competitors. *Electus est* signifies no more here than that King **William** appointed and ordered he should be **Archbishop** of **Canterbury**.

[6] F. 636. 637

[7] De Gest. Pontif. f. 116. b. n. 30.

Concerning **Anselm**, **Gerhale of Canterbury** [8] says, *Anselmus Abbas Beccensis qui tunc in Anglia Ordini Beccensi subditas visitabat Ecclesias Electus est nonis Martii, &c. In pastorem Ecclesiæ Cantuariensis Ecclesiæ, &c. Anselm Abbat of Bec being in England to visit the Churches belonging to that Monastery, was chosen Archbishop of Canterbury on the 7th of March, &c. Cadmer* from fol. 16. n. 40. to f. 21. and **Malmsbury** de Gest. Pontif. f. 124. a. b. both tell the manner of his being made **Archbishop**, and say it was by the King alone; but the *Bishops* pressing him to accept that Office, and the people shouting he is there said to be *Elect*. *Rex Gulielmus junior dedit Anselmo Dorobernensem Archiepiscopatum*, so **Florence of Worcester**, f. 645. A. D. 1093. **Simon of Durham** hath the same words, Col. 218. lin. 5. *Rex Willielmus Anselmo Beccensi Abbati Dorobernensem Archiepiscopatum concessit.* So **Ralph de Diceto**, Col. 491. n. 10. *Rex Willielmus Anno Regni sui quinto Archiepiscopatum Cantuariensem Sancto Anselmo Beccensi Abbati venerabili viro dedit*, Col. 987. n. 50. *Rex Willielmus junior dedit Archiepiscopatum Cantuariensem Anselmo Abbati Beccensi viro venerabili.* **Mat. Paris**, f. 17. n. 20.

[8] Act. Pontif. Col. 1656. n. 10.

William the Treasurer of the Church of **York** was chosen **Arch-Bishop**, by the major part of the Chapter, the **Arch-Deacon** of the Church **Henry Burdac** makes a faction amongst the *Cleres* and *Cannons* the *Electors*, and hindered **Williams** Consecration. *Archilevita Discidium inter Eligentes Excitavit ipsum Willielmum à saniori parte Electionis impediens, licet de ejus Electione Clerus & Populus acclamassent laudum praconia*, **Brompt.** Col. 1029. n. 10. The Pope set aside this **William** upon an *Appeal*, and Consecrates **Hen. Burdac**, after whose Death **William** was chosen again; and there being a great Crowd of People at his *Election*, they brake down the Wooden Bridge over the *River Ouse*. *Quod cum Audisset sanctissimus Pater Willielmus fusa cum lachrymis Oratione ad Dominum, ne pro eo Deum laudantes profundum obsorberet, submersos signo Crucis signavit & mox Orationis suæ virtute universos à periculo Mortis succurrente Divina pietate liberavit.* **Thom. Stubs** Act. Pontif. Eborac. Col. 1722. n. 20. 'Tis frequently said

said in old Historians, That *Bishops, Archbishops* especially, were chosen by the *Clergy and People*, though they did nothing more than hollow and shout, or perhaps sing *Te Deum laudamus* when the Election was declared : And there will never want Company to make a noise, where there is plenty of good Drink and Victuals, as there always was at these times.

The old Monks said every one was Elected that had not an Hereditary Title ; and though he was set up by the Art or Violence of a Faction, or obtained the Crown by Force and Arms without Title, [* *] yet according to them he was Elected, when as the People only received and submitted unto them, when they could not help it, and it may be because there was much shouting, and many Acclamations at his Reception. *Anno Domini 1607. Dux Normanniae Willielmus Civitatem Londonæ ingressus cum magno Gaudio à Clero & Populo susceptus, & ab hominibus Rex acclamatus, & in die natali Domini in Regem est Coronatus, Lib. Prioratus de Spalding, f. 29. b.* See the Stories of King Harold, Hen. I. and King Stephen in the History of the Succession, how they obtained the Crown by Fraud and Violence, and yet by several old Monks they are said to be Elected for the Reasons just now mentioned.

And for the same Reasons they said some of our Kings that had undoubted Hereditary Titles, and succeeded accordingly, were Elected. So the [9] Chronicle of Normandy of King Henry the Second. *Henricus Dux Normannorum in Angliam transfretans vii. Idus Decembris, (that is, the seventh of December) cum magno Tripudio Clericorum & Laicorum exceptus est, 14 Calendarum Januarii, (that is, on the 19th of December) Die Dominica ante Nativitatem Domini apud Westmonasterium, ab omnibus Electus & in Regem unctus est à Theobaldo Archiepiscopo Cantuariensi.* So likewise [1] Ralph de Diceto, *Dux Normannorum Henricus 14. Calendarum Januarii Die Dominica ante Natale Domini apud Westmonasterium ab omnibus Electus, & in Regem unctus est à Theobaldo Archiepiscopo Cantuariensi.* And after the same Rate they speak of others ; though in any of them, or any where else, there is not to be found any solemn meeting or preparations for the Election of any King, or the least footsteps of any form of Election. Yet notwithstanding ignorant, malicious Men will make use of such Testimonies as these, without examining the probability of them, when by their small Arts they plant their Batteries against the Government, though there be better Authorities to the contrary ; as in this case [2] Roger Hoveden speaking of the Death of King Stephen, says, *Cui Henricus Dux Normannorum filius Matildis Imperatricis successit in Regnum Coronatus & in Regem Consecratus, &c.* Insinuating his Hereditary Title as the Son of Maud the Empress. Accordingly John [3] Brompton, *Stephano ut dictum est defuncto Henricus Secundus Filius Imperatricis à Theobaldo*

[* *] According to their Judgment if he favoured holy Church, that is, let the Clergy Govern, then they Celebrated him ; if otherwise, they Exposed him : And these Cloystered Men who wrote all then, (for few others could write or read) made a Prince good or bad as the Rabble do now, according as he pleased their humour, and were Beneficent to them ; and there was, nor could be any end of pleasing generally the silly Monks then, more than there can be of the Multitude now. The Rabble hath all their pretences from them.

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[9] F. 990. C.
A. D. 1154.

[1] Col. 529.
n. 10.

[2] F. 281. a.
n. 40.

[3] Col. 1043.
n. 40.

in Regem Consecratur. Hereditariumque Regnum sine Diminutione suscepit Congaudentibus & Conclamantibus Turbis Vivat Rex. Paris reports the same thing, [4] *Dux igitur Henricus 7 Id. Decembris in Angliam veniens cum magno Cleri & Populi tripudio Exceptus est & 14 Calendarum Januarii apud Westmonasterium ab omnibus Rex Acclamatus, à Theobaldo Archiepiscopo Cantuariensi in Regem consecratur.* And in *Parlement* King Stephen upon the Agreement made between him, and this King Henry doth acknowledge he had the hereditary right and Title, and that by his Concession he was to possess the Crown during his Life, [5] *Rex Stephanus, Recognovit in Conventu Episcoporum & aliorum de Regno Optimatum quod Dux Henricus Jus Hereditarium in Regnum Angliæ habebat, & Dux benigne Concessit ut Rex Stephanus tota vita sua suum Regnum pacifice possideret.* King Stephen acknowledged in a Meeting of the Bishops and Chief Men of the Kingdom; That Duke Henry had the Hereditary Right to the Kingdom, and that he kindly granted he should possess his Kingdom during his Life.

[4] F. 92. n. 20.

[5] Mat. Westmonaster. f. 364. n. 10. A. D. 1153.

Sometimes Election, and the words Electio, and Electus, are used for Rejection and refusing, and a submitting to what cannot be refused, as in the Election of Jury's (as 'tis called) nothing more frequent in the old plea Rolls as *Jurata Electa, Assisa Electa, & Juratores à partibus Electi*, or *Uringue Electi*; before tryal. In an action of Trespass [6] between the Abbat of St. Albans; and Geoffrey de Childewicke and others before William Provost of Beberly, Henry of Bath, Roger de Turkeby, & Gilbert de Pressuna, Justices Itinerant, 'tis said [7] *Jurata de Consensu partium venit recognitura per Petrum de Chalp, Willielmum Rebel, &c.* There also *Duodecim Milites gladiis Cincti fuerunt Electi in Assisa de Consensu partium*, The Knights were the Jury or Recognitors above named, Glanvil, lib. 13. c. 7. *ab initio Eligendi sunt duodecim liberi & legales homines de visneto secundum formam in brevi Expressam*, speaking of the Petents and Tenents chusing of them, where see more of this matter, Bracton, lib. 4. c. 19. n. 3. *Et Sciendum est quod si semel de Consensu partium Eligantur Juratores ulterius recusari non possunt.* In this Chapter he tells the Exceptions which lie against the Jurors, and why they may be challenged or Refused. But they can only Challenge or Refuse a Certain Number; and they must stand to the Verdict of the others. The Sheriff in very deed maketh the Pannell and chuseth the Juries, and yet they are said to be Elected by consent of the Parties, Plaintiff and Defendant. Here is no Act of positive and deliberate consent, such as is required and implied in an Election.

[6] Mat. Paris, f. 38. n. 10. 20. & c. A. D. 1240. 24 H. 3.

[7] Ibidem, f. 539. lin. 4.

By the Original Laws, Grants, and first Institution of Beneficia, or Fees, (as they were afterwards called) they were revokeable at the Will of the Lord, Patron, or Donor, when he pleased. And at any time, when he would, might take them away from the Beneficiary, Feudatary, or Possessor. Afterwards they were granted for a Year, and then for the life of the Feudatary or Vassal. When in process of time they became Successive, and passed to the Sons of the Possessor; but so, if he had more Sons than one, the Lord gave the Fee to which he pleased: From hence, by degrees, they became Hereditary, and passed also to Women; But, as at first they were given, so they always remained under Conditions of Fidelity, Fealty, or Faithfulness to the Lord, and Military Service when he commanded it; and answerable

Spelman's Glossary, fol. 565. Col. 1. from the Books of the Feudal Law.

See Hottoman, Cujacius Crægius, &c. Fees in process of time became Successive; And Hereditary. Ibidem.

Wards:

Marriages.

Hottom. in
verbo Relevium.The Feudal
Tenure in
most European
Nations.

Spelm. Gloss.
fol. 68. col. 2.
fol. 218. col. 1.
Seld. Tit. Hon.
Edit. in Quarto,
Pa. 300.
301. Bacons
Elements,
Trea. 2. p. 30.
Som. Gavel-
kind, in Ap-
pend. script.
21. p. 210.
* Here in Ap-
pend. Record
1. Glossar. fol.
214. 215.

Vid. Hott. de
Feud. Disp. c.
38. col. 886.
D. E. &c.
Several ways
of forfeiting
of Fees.

able to these *Conditions* there were two ways of losing Fees, *Breach of Trust*, which was called *Felony*, and varied according to the difference of places, in some for *lesser*, in others for *greater ingratitude*, the Fee was *forfeited*; and for *want*, or *defect of Service*, the Fee or Land given for it, *returned to the Lord*; and in case of an *Infant*, or *Woman*, who were neither of them *fit to perform Military Service*, yet it was thought unjust they should lose their *Fee*, or *Estate*. Therefore they or their *Estates* were in *Guard*, or *Ward to the Lord*, and were called his *Wards*, and the *Service* by him provided for, until the *Male-Infant* was of *Age*, and trained up to, and made *fit for the Service* he was to perform: Or the *Woman* by his consent had taken such a *Husband*, of whose *Fidelity*, he was assured, and by whom she might perform the *Service*, which by *virtue* of her *Fee* she was bound to. But if the *Heirs*, or *Successors* were of age, they paid *Reliefs*, which in *Feudal Latin* were called *Relevia*, *Relevamenta*, *Relevationes*, because, by them, they took up again the *Fees*, or *Lands*, which were fallen by the *Death*, or *Forfeiture* of the *Feudatary*. Sometimes they were called *Introitus*, or *Ingressus*; and they were but an *honorary Gift* to the *Lord* by his *New Vassal*, for his *Entry* upon his *Land* or *Fee*, perhaps not much unlike that of our *Coppy-holders Fine*.

This Feudal Law, obtained in most *Nations of Europe*, and in *Normandy* was in its *full vigor* at the time of the coming over of the *Conqueror*, but afterwards grew more *mild* and *qualified*, as also the *Tenure* its self, a perfect *description* of which, with all its incidents, of *Homage*, *Relief*, *Ward*, *Marriage*, *Escuage*, *Hyde*, &c. are to be found in the *Grand Custom*, Cap. 29, 33, 34, 35. and although there were *Military Feifs*, or *Fees*, here in the *Saxon times*, yet not in such *manner* as after the *Conquest* established here by *William the Conqueror*, and according to the *usage* in *Normandy*; when as it appears by *Dooms-Day Book* in every *County* he divided most, if not all the *Land of England* amongst his *Normans* and *Followers*.

But besides the two *former ways* of *Forfeiture*, there were many others which * *Sir Henry Spelman* hath collected from the *Feudists* and *Feudal Laws*, and some of them do here follow. Originally, all *Vassals* held their *Lands* at the *Will* of the *Lord*, and whether they were *Delinquents*, or not, he might at his *pleasure*, take them from them. In point of *Tenure* they were much like our *Ancient Coppy-holds*, at meer will; and in this of *Forfeiture* they much resembled them, and those also at this day.

It was a *Forfeiture*, if *thrice summoned* to the *Lords Court*, they neglected, or refused to come and *take up* their *Lands* and do *fealty*. If they *refused* to do their *Service*, or *denied* their *Tenure*, it was a *Forfeiture*. If they *sold* their *Estates* without leave of the *Lord*, or if they *sold* it by any other *title* than they had themselves, it was a *Forfeiture*. If they did any thing against their *Oath of Fealty*, if they adhered to their *Lords Enemies*, or did *forsake* him in time of *War*, or *danger*, all these were *Forfeitures*. If they *committed* any outrageous *wickedness*, which was called *Felony*, as *Murder*, *Robery*, *Burning of houses*, *Rape*, &c. and which was no *Treason*, this likewise

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wife was a *Forfeiture* of their *Lands* and *Estates* to the *Lord* of the *Fee*. And by committing *Felony*, and the *Non-perfomance* of the most of those things, upon *Condition* the *Tenents* at this day *Forfeit* their *Lands*, and they *escheat* to the *Lord*, some by *presentment* of the *Justice*, others *immediately* where the *Fact* is *notorious*.

Coke compleat
Copyholder,
Sect. 57. 58.
Kitchen, Tit.
Copyholder.

A It will make much to the further understanding of *Knights Fees*, and the *Forfeitures*, and other *incidents* belonging to them, to give a brief account of the *Institution* of *Maners* here in this *Nation*, as I find it in our *Learned Glossarist*, who says it was a *Norman word*, and brought from thence; and what the *Saxon* called a *Pradium*, or *Villa*, their *Possessions* in *Land*, with the enjoyment of *Soc*, *sac*, *Tol*, *Team*, and other *Privileges*, the *Normans* called *Maners* a *manendo*, because such *Possessions* were *Ordinarily* the *Seats* of the *Lords*. The *Saxon Jurisdictions* had their *Origen* from the *Grants* of their *Kings*, but *Maners* had their beginning from *Feudal Law* or *Right*: For *whoever* could *dispose* of *Fees*, might justly give *Laws* to their *Vassals*, erect *Courts*, and take upon them all other *Priviledges* pertaining to a *Noble Fee*.

Fol. 399.
The first Institution of Maners.

Maner from whence derived.

They were Feudal.

C He further says at the beginning, this was the *course* of *Instituting Maners*; for the most part *different Lords* possessed the *Territories* of every *Town*, or *Village*, and *cultivated* it by their *Servants*, *Vassals*, and *Husbandmen*; for at that time there were living in the *Country*, only *Military Men*, *Labourers*, or *Husbandmen*. First, the *Lord* designed the *place* of his own *Habitation*, and annexed to it a plentiful *portion* of *Land* for the *Maintenance* of his *Family*, which are yet called *Terre Dominice*, *Demefn Lands*. Another share he gave to his *Vassal*, or *Vassals*, for their *Aid* and *Assistance* in *War*, and they were called *Knights Fees*, or *Military Fees*, which, if they were not sufficient for the maintenance of one *Soldier*, yet according to the quantity of *Land* they enjoyed, they contributed such a share as was agreed for, [*] *half*, a *third*, a *fourth*, or less part according to the *smallness* of the *portion* of the *Fee* granted towards the *Lords Military Expences*.

How they were instituted.

Ibidem.
For maintenance of their Horse and Arms.

E A third part he distributed to such as performed all *Rustick* and *Servile Works*, *Repaired* his *Houses*, *Plowed* and *sowed* his *Land*, *Reaped* his *Crop*, *Carried* it into the *Barn*, *Threshed* it, *Digged*, *Hedged*, and took *Care* of his *Flocks* and *Fields*. The *Precincts* of his *Distribution* were *Governed* by such *Laws* as the *Lords* imposed; and as all their *Estates* arose from his *Beneficence*, so they depended on his *Will*: hence so many several *Customs* in several *Maners*.

Ibidem.
Base Tenure.

Whence several Customs in several Maners.

F The *Lords House* was the *Aula*, *Hall*, or *Court*, and all the *Tenants*, if need required, were bound to attend there every *three weeks*, but generally at the *Feast* of the *Annunciation* and *St. Michael*, from whence these *Courts*, kept at those times, were called *Curie generales*, or general *Courts*.

Grand Custom of Normandy, Chap. 34. 35. 53. & every where in our ancient Lawyers and Historians.

[*] I rather think Fees were entire at first, and the Division of them happened either from the Poverty of the Tenant; or his dividing it amongst his Children by leave of the Lord, for which there was a Composition paid, as in Copyholds at this day.

Hot. de Feud.
Disp. c. 10. § 30.
D. They might
straighten, but
not enlarge
the Condition
of the Fee.
* Ibidem, c. 53.

Lords of Ma-
ners ought
suit to the
Courts of
mean Barons.

And they to
the Courts of
great Barons
on whom they
held.

Glanvil, lib. i.
c. 3.
And great Ba-
rons to the
Exchequer or
Knight's Court
The Lands of
England par-
celled out, and
distributed by
the Conquer-
or.

Seldens Tit.
Hon. fol. 572.

All Maners
not of the
same extent
and value.
Magna Char-
ta, c. 32.

Pag. 164. b. n. 4

Fee-Farms.

Ibidem, a. n. 3.
Frank-Farms
or Tenements

These Lords of Maners, or small Baronies, held either *in Capite* of the King, or most commonly of other great Barons, as of their Honour, or Heads of their Baronies, by the same Tenures; and under the same Forfeitures; and these in like manner of the King *in Capite*: for by the Feudal Law, Sub-Fees were to be given, and received according to the Laws of the first Institution of the Capital, Royal, or Great Fees, which held immediately of the Prince; and therefore as the Inferior or lowest Lords* had their Courts for adjusting all matters within the Jurisdiction of their Honours, so had those of a middle rank within their Jurisdiction, for such of these Inferior Lords, or others, as held of their Baronies.

And likewise the Capital Barons had their Courts within their Jurisdiction, in which, all, or most matters relating to, and arising between their Tenants, were ordered and decided. And they were not only held at the chief seats of their Honours or Baronies, but perhaps all over England, where they had any considerable Lands or Possessions. As the Honor of Richmond, Honor of Gloucester and Clare, Duchy of Lancaster, &c. have at this day their several Courts for determining Controversies and Suits within their Jurisdiction, of matters of small value.

Lastly, These great Barons were within the Jurisdiction of the Kings Court, which was then the Exchequer, where all Pleas concerning their Baronies were terminated: The Conqueror gave to some of his greatest Followers Titles of whole Counties, and to some two and three Counties, with a great proportion of Lands in them; to others some part or portion of a County, as Hundreds, or a greater or lesser share, who parcelled them out to their Dependents and Friends, and they again to theirs, till at last the Soldiers and Ordinary Men had some proportionable share for their Services, though upon hard Conditions, possessing them for the most part as Feudatories, and according to the Rules of the Feudal Law, which was the Law for the most part in Normandy, as to Possession and Tenure.

These Knights Fees were not all of the same value, but some greater, some lesser, according to the Beneficence of the King, or those that held of him *in Capite*, to their Tenants in Military Service, or Sub-Feudatories: some were scanty Allowances, for their Performances and Services; others were plentiful, much more than would make good the Service; and then by the Kings Licence they Let part of those Lands to Fee-Farm, so called, because a Farm-Rent is reserved upon a Grant in a Fee: And Britton says they were Lands held in Fee, which answered the yearly value. Upon which Tenements, no Homage, Ward, Marriage, or Relief could be Demanded without special Reservation in Writing, or by the same Licence changed part of their Capital, or Knights-Service Lands into Frank-Farms, which were Lands and Tenements, of which, the Nature of the Fee was changed by Feoffment, from Chivalry, or Military Service, for certain Services by the year, for which Homage, Ward, Marriage, or Relief, or other Service could not be demanded, that was not contained in the Feoffment. Hence most of our Freeholds, and the Rents called Free-Rents, due to Lords of Honours; and hence the ordinary Libere Tenentes, which in those days were not always Freemen; for

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for a **Tenement** changeth not the *Condition* of a *Freeman*, or *servant*, or *Villan*. A *Freeman* might hold pure *Villanage*, and yet remain free; and a *Bondman* might hold by free *Services*, and yet be a *Bondman*. *Quia Tenementum nihil confert vel detrahit persone*; for that a *Tenement*, or *Possession*, neither added to, or detracted from the person of any Man, if free or bond, according to his *Blood* or *Extraction*.

Bracton. lib. 2. c. 8. n. 3. A Free-Tenant might be by blood a Bondman. Ibidem, n. 1;

A From these **Military Fees** or **Possessions**, the **Milites** had their Names; Nam Miles (says Sir Hen. Spelman) quem Baronem vocabant, non à Militari cingulo, quo Equites creabantur, sed à Militari feodo (quo alias Possessor & Libere Tenens nuncupatus est) Nomen sumpsit. For a Miles which was called a Baron, took not his Name from the Military Girdle, with which Knights were Created, but from the Military Fee, by reason of which he was otherwise called a Possessor or Free-Tenant; and so Camden, Milites primo apud nos appellati fuerunt, qui Prædia Beneficiaria Tenuerunt ut Militarent. They were first called with us *Milites*, which because they went to Warfare, had Lands given them. And many *Tenents in Capite* there were, who had scanty Fees, or only parts of Fees, or that desired not Knighthood, and had Compounded or Fined that they might not be made Knights, that were not actual Knights, who were called Free-Tenents or Freeholders. This is evident from several Writs in the Appendix, Record 9. 10. 11. And these with the *Knights* were the *Communitas Regni*, when mentioned after *Earls*, *Barons*, and *Magnates* in old Records, and after that manner distinguished from them.

Glossar. fol. 72. col. 1. Milites, why so called.

Britan. fol. 123

Many Freeholders Tenents in Capite that were not Knights. See Append. Record. 9. 10. 11.

D Possessors of *Parts*, and *Members* of *Knights Fees* without doubt there were many, which had *Court* and *Jurisdiction* and *Services* belonging to them; for these Priviledges were extended to an eighth part of a Fee, and the Division of a Fee as far as an eighth part, was called a *Member of Fee*; hence so many small Maners. Fees were further divided even to a fortieth part, but then they enjoyed not those Priviledges. *Grand. Custum. of Normandy*, c. 33. *Crag. de Feud. f.* 72.

Members of Fees.

E Not but most, if not all the *Great Barons*, as also the *Tenents in Capite*, and some others that held many *Knights Fees* of mean Lords, and were possessed of great *Estates*, were actually [*] *Knights*, created by Ceremony; that is, they were *Baltheo Militari cincti*, or *Ornati*, Girt by the King with the *Military* or *Soldiers Belt*, as the Custom was in those times, when it was reputed a very great Honor to be so *Knighthood* or *Girt*; and from hence, as well as from their Fees, *Barons* were frequently stiled *Milites*, and *Chivalers*, as *Selden* assures us, that in the Writs of Summons to *Parliaments*, *Pleadings*, and other *Legal Instruments*, most regularly the word *Baron* is wholly omitted, and usually *Chivaler* supplies it, as an *Addition* in the *Parliament Writs* to the *Temporal Barons*. And from the *Pipe-Rolls* in the time of *Henry the Second*, he says they had *Heads de Scutagiis Baronum Angliæ, de exercitu Walliæ, & de Scutagiis Baronum qui non abierunt cum Rege in exercitu Galweie, de Scutagiis Baronum qui non abierunt, nec Milites nec Denarios Miserunt ad exercitum Hiberniæ, Galweie,*

Tit. Hon. fol. 571. Rot. Mag. 20. Hen. 2. in Buckingham. &c. Seld. Tit. Hon. fol. 574. Note, The Tenents in Capite are called the Barons of England in the Pipe-Rolls and were the same persons.

[*] Men that held great Estates of great Tenents in Capite, as 5, 6, 7, 8, 9, 10. or more Knights Fees, were Titular Barons, and called by such great Tenents in Capite, their Barons; but were not Barones Regni, or Parliamentary or Great Council Barons, as I have shewn elsewhere.

* Escuage or Scutage service was a Fine or Composition paid to the King, when the Knights upon Summons to War, were Excused from performance of their Service.

Mat. Westm. fol. 366. n. 10. A. D. 1259. Great Earls called Milites.

Ibidem, 395. n. 23. 30. Slain at Evesham. Great Barons called Milites.

Ibidem, 399. n. 50.

Paris, fol. 997. n. 30. Ibid. 996. n. 50.

Wallie; that is, of the *Scutages* of the *Barons* of *England*, of the *Army* of *Wales*, of the *Scutages* of the *Barons* which went not with the King in the *Army* against the *Scots*; of the *Scutages* of the *Barons*, who went not in, nor sent their *Milites*, or *Money* to the *Army* of *Ireland*, *Scotland*, *Wales*. And says further, that under those *Heads* the *Names* of the *Barons* of the *Counties*, where the *Heads* are placed, occur together with the number of the *Knights*, (or *Knights Fees*) for which they paid their * *Escuages*; and the same kind of *Tenents* in *Chief*, or *Barons*, are oft-times also in the *Rolls* of the same time indifferently called *Milites*, in *Heads* of the same *Syllables*, saving that *Militum* supplies *Baronum*, which agrees with the use of the later *Ages*, wherein *Miles* and *Chevalier* have been so proper and usual in the *Expression* of them. Thus far *Selden*, whom I have rather cited than the *Rolls* themselves, because with some Men his *Authority* is greater.

But further, That *Miles* was a frequent Title given to our great *Earls* and *Barons*, take these few Instances, in stead of great numbers out of *History*.

Circa Kalendas vero Aprilis ex precepto Regis, & totius Baronagii Consilio, arripuerunt iter transmarinum ad Parliamentum magnum Domini Regis Francie; pro pluribus arduis negotiis, Regna Francie & Anglie contingentibus, Comes Globern. & Lecestr. Dominus Johannes Mansel, Petrus de Sabaudia, & Robertus Wallerand Milites, habentes potestatem componendi & pacem inter eos firmiorem ineundi, si idem Rex Francie pacta precedentia, ut prelocutum fuerat inter speciales nuntios suos, & Regem Anglie inviolabilia satageret conservari.

Simon Comes Lecestr. Hen. filius ejus, Hugo Dispensator Justitiarius Angl. Petrus de Monte forti, Guliel. de Mandebilla, Rad. Bassler, Roger de Sancto Johanne, Walterus de Creppings, Guil. de Ebozaco, & Robertus Cregos, Barones & Milites prepotentes; All slain in the Battel of Evesham.

Miles Egregius Dux Edwardus, said of the *Prince*:

Defendens omnes Gilbertus Milites nobiles de Marchia quorum supra facta est mentio: These were Rogerus de Mortuo Mari, James Audeley, Roger de Leiburn, Roger de Clifford, Haimo le Strange, & Hugo de Turbivile, and others, all great and considerable Barons in the Marches of Wales.

Feudatarii, Fideles.

F *Feudatarius* qui *Feudum* à *Patrono* sibi commissum accepit, and was the same that *Beneficiarius*, and *Beneficium* the same that *Feudum*, for *Feudum* & *Feudatarius* came in use in stead of them. He was one that received *Land* of any *Lord* to do him *Servite* for it, and did him *Homage* and *Fealty* for the *Lands* he held of him, and *Servites* he was to do him.

Hottom. in
verbis Feud.
col. 924. D.
Printed 1599.

Fideles interdum generaliter dicuntur, qui in *Principis* alicujus *Potestate* & *Ditione* sunt, qui vulgo *subjecti* appellantur. Sometimes they are taken for *Subjects* in General.

Ibidem.

Interdum specialiter dicuntur iidem qui *Vasalli*. Qui *feudo* accepto in *patroni* *fide* & *Clientela* sunt, vicissimque suam ei certi *obsequii* nomine *fidem* astrinxerunt; Sometimes they are the same with *Vassals*, who having received *Fees*, are in the *Retinue* of some *Patron* or *Lord*, and have pledged their *Faith* to do him certain *Services*. In this last sense, as well as in the first, the word *Fideles* often occurs in ancient *Historians* and *Records*. *Willielmo filio Hen. I. Cum vix 12 annorum esset omnes liberi homines, &c. Cujuscunque ordinis & dignitatis, Cujuscunque Domini Fideles manibus & Sacramento se dedere coacti sunt.*

Ibidem, col:
925. A.

Malmsb. fol.
93. a. n. 30.

Rex Baronibus, Militibus & omnibus Fidelibus totius Anglie salutem. These were to hear what the *Bishop* of *Winchester* was to say to them about the *Releasing* the *Interdict*, and that these *Fideles* were the *Kings Tenents in Capite*, is clear from the later part of this *Record*. *Unicuique vestrum si fieri potest, literas nostras super hoc transmissimus, sed ut negotium majori festinatione, &c. Teste Meipso apud Rupell. vi. Die Martii.* The *King* had writ to them all particularly but that the business required great hast. Before *Magna Charta* this *King* sent special summons and particular letters to his *Barons* and other *Tenents in Capite* to meet upon any occasion, which was granted *June* the 15th, in the 17th of his *Reign*.

Pat. 15. Jo-
hannis p. 2.
m. 2. n. 9.

Rex omnibus Comitibus, Baronibus, Militibus & aliis Fidelibus suis de Com. Ebor. Northumbr. Cumbr. &c. vobis Mandamus quod prompti sitis & parati cum Equis & Armis, &c. These were *Feudataries*, and *Tenents in Military Service*.

Cl. 42. Hen.
3. m. 70.
Dorf.

Rex dilecto & Fideli suo Rogero le Vigor, Com. Norff. ut cum Equis & Armis, & servitio vestro, &c. Eodem modo mandatum est, to 130 Barons and Tenents in Capite.

Cl. 47 Hen. 3.
m. 7. Dorf.

Rex dilectis & Fidelibus suis Militibus & liberis hominibus de Com. Southampton, Mandantes Rogamus ad nos sitis cum Equis & Armis, &c.

Pat. 48 Hen. 3.
m. 18. Dorf.

Rex Vicecom. Northumbr. &c. cum dilecti & Fideles nostri Johannes de Baylol, Petrus de Brus, Radulph. filius Ranulphi & Socii sui.

Cl. 50 Hen. 3.
m. 9. Dorf.

These

These were *Barons* and *Tenents in Capite*. See Dugd. Baronage, Tome 1.

And that the *Fideles* were such as here described in the meaning of the *Fendal Law*, See *Cujacius de Feud. lib. 1. Tit. 17. De successionē & Culpis Militis Fidelis. Tit. 22. De investitura quam facit Dominus sine consensu Fidelis, Tit. 23. Ut Miles Fidelis de possessione feudi non ejiciatur sine culpa. Tit. 24. Si Dominus investituram feudi negaverit, cum Fidelis est in possessione feudi, lib. 2. Tit. 19. Si de investitura feudi Contentio fuerit inter Dominum & Fidelem, Tit. 20. Si inter Dominum & Fidelem de feudo fuerit Questio, lib. 4. Tit. 100. Impetratorem feudum amittere, vel alium pro se Fidelem dare*: In all which places, *Fidelis* and *Feudatarius*, or *Fendal Vassal* are the same.

Ut omnes Episcopi, Abbates, Abbatissa, Optimates & Comites seu Domestici & Cuncti Fideles qui Beneficia Regalia habere videntur, &c. Capit. Caroli Magni, lib. 1. c. 132. very often the word is to be found in this sense in these *Capitularies*, and in the *Lombard Laws*, and in all the *Feudists* especially.

The meaning of this word *Fideles*, as also of these words *Liberi homines, Libere Tenentes, &c.* is to be known from the Subject Matter where they are used, and the words with which they are joyned in *Construction*, which will give us the true sense of them where-ever we meet them.

Folke-

Folke-Mote.

S I R. Henry Spelman tells us concerning the Folke-Mote, that every May-Day yearly, as in an Annual Parliament, as well the Chief of the Realm, as the Bishops, Magistrates and Freemen met. The Lay-Men were sworn to defend one another, sware Fealty to the King, and to preserve the Laws of the Kingdom, they consulted of common Safety, Peace and War, and the Publick Benefit. As to the time of Meeting by the words he uses, he should have taken that out of the Auctuarie of the 35 Law of Edward the Confessor, where it is said There was also a Meeting of like Nature for chusing of Sheriffs, and Heretochs, and other Officers, and dispatch of some other business, which were indeed the ancient Sheriffs Turns. But wheresoever he had the later part of his description of a Folke-Mote, though I have a great veneration for the very name of Sir Henry Spelman, I am sure it could not be so; if we may rely upon the Saxon Laws, Gif Don on Folces-gemot Cyninges geresan ge-pppe Eofar, and his est gestwican will, gestele on ribtran hand gif he mege: gif he ne Dage Tholige his angyldeas. If any Man in Folk-Mot declares concerning a Debt before the Kings Provost, or Officer, and ceases from that Declaration, to put it into a righter hand or way of Dispatch, he shall lose his amends or Satisfaction.

LL. Alured.
C. 22.

Eac is Ceapmannum geriht tha men the hi opmid heom Ledath. Gebzingan beforan Cyninges geresan on Folc-gemote; and geresce bu Daniga thera syn, et he nimen tha men mid heom, the big Dagon est to Folc-Gemote to riht Gebzingan; et thonne heom Thearf sy ma manna up mid heom to hebbanne on heora fore, gecythe symble swa oft swa Thearf sy on Gemotes gewyrnysse Cyninges Geresan. Also it is the Merchants right, that the Men he carries with him he bring before the Kings Reve in Folk-Mote, and reckon how many there are, and then he may take those Men with him, which he may afterwards bring to Justice in the Folk-Mote, and then if there be necessity for him to have more Men with him than heretofore, he shall shew them always before the Kings Reve in the Gemot, or under Testimony of the Gemote, so oft as need shall be. These Folc-Gemots were held before the Kings Gerefe, who we never read was permitted, or had any Commission to treat of Peace, or War, Public Safety, or Benefit. Nor is it probable the Merchants could bring their Men before such great Meetings only twice in a year, for they must either lose their Voyages, or these Meetings must be called to take a View of every Merchants Men, neither of which I think are probable, and therefore I take the Folk-Motes in the Saxons time to be an Inferior Court, and may be it was the Monthly Court, as this Law not very obscurely seems to hint to us. Ic Wille that elc Geresfa hebbe Gemot a ymb-feower wrcan and ge don that elc Dan sy Folc rihts wrythe and elc spret hebbe end.

Ibid. m, LL. 30

LL. Ed. Sen.
C. 11.

I will, That every Reve have a Gemot always about four weeks distance, and do, that each Man have Folc-right, and that each Squabble have an end.

And

LL. Athelstan,
c. 2.

And we Gewdon be them blafozd leasum mannum. The nan Ðan nan rihte et begytan ne meg. That Ðan bude there meg the that bi hine to rihte gehamette et him blafozd funden on Folk-Ge-mote. And we say, concerning *Lord-less Men*, against which no Man can have *right*, that his Kindred be commanded to bring him to *right*, and find him a *Lord*, or *Fide-jussor*, to undertake for him in the *Folk-Mote*.

A

Ibidem, apud
Groatanley, c.
1.

If any Man turned away his Servant for evil doing, and his Lord had a mind unjustly to undo him, berette hine thonne gif he Bege on Folcgemote. He may Justifie himself if he can in the *Folc-Mote*.

All these Laws prove the *Folcgemote* to be an *Inferior Ordinary Court*.

B

Judicium Dei, Bellum vel Judicium, seu Dei Ju- dicium.

C

* Decret.
Gregor. lib. 5.
Tit. 33.

THE meaning of *Bellum* as 'tis here distinguished from *Judicium*, is known by every one, but by *Judicium*, or *Dei Judicium*, sometimes was meant *Purgation*, by which the crime was removed, where Men wanted witnesses to prove their innocence: And this *Pur-gation* was either * *Canonical*, so called for that it was allowed by *Ca-nons* and *Councils*, and was always performed by *Oath* either of the *Party* alone, or others joyned with him. Or *Vulgar*, received as intro-duced at first by the *Ignorant* and *Superstitious* Multitude, and was cal-led an *Invention* of Men, a popular *Invention*, a strange *Judgment*, a *Law* without any *Sanction*, and this was performed by *Duel*, Red hot *Iron* carried in the hand, or Red hot *Plough-shares* to be walked over by blindfolded Persons, or by *Hot Water*, or by *Cold*, or by the *Cross*, the *Eucharist*, or *Morsel* with *Imprecations*, &c.

D

Swearing and *Duel* (though sometimes) were but seldome taken in this sense for the *Judgment* or *Decision* of God, which was mostly understood of *Fire* or *Water Ordeal*, or the probation by *hot Iron*, *hot* and *cold Water*. Si negaverit ipsum occidisse, ad nobem bomeres ignitos, ad judicium Dei examinandum accedat, LL. Longobard, lib. 1. Tit. 10. Sect. 3. If he that was accused did not confess the mur-der, he was to be tryed by stepping barefoot blindfolded over nine *Plough-shares* laid in length at equal distance, which if he passed un-burnt, he was judged *innocent*, but if burnt, he was judged *guilty*; this they termed examination by the *Judgment* of God. Gif þwa Ðwaleg Weddige, &c. LL. Athelstan. c. 23. which words *Brompton* ren-ders, si quis *Judicium ferri vel aquæ vadiaverit*, Col. 844. n. 20. (be-cause the manner of performing both those sorts of *Ordale* are Descri-bed in that Chapter) if any Man gives *pledge*, or *security* to undergo the *Judgment* of *Fire* or *Water*, &c. And in *Canutes Laws*, That he ga to Godes Ðwale, ad Dei *Judicium* eat, c. 32. In the Laws imputed

E

F

imputed to King Edward the Confessor, it is said of an English Man that killed a Dane, *Si se super hoc defendere non potest Iudicio Dei, scilicet aqua vel ferro, fieret de eo Justitia*; If he was found Guilty by the Judgment of God, to wit, by Water or Iron, let Justice be done upon him, that is, let him be put to death as the Law was, c. 16. In the * Laws of William the First, *Judicium & Bellum* are contradistinguished, *Anglus se defendat per quod melius voluerit aut Iudicio ferri aut Duello*, c. 62. *Anglicus homo de re aliqua pro qua Bellum fieri debeat vel Iudicium inter duos homines habeat plenam licentiam faciendi*, c. 68. *Si Francigena compellat Anglicum per Bellum, &c. Anglicus plena licentia defendat se per Bellum vel per Iudicium si magis ei placeat*, c. 69. In all which places an English Man had liberty given him to defend himself by Duel or Judgment, which he pleased. So also Glanvil after he had spoken of Duel, and the Causes for which some Men might be excused from it, says, *In tali autem casu tenetur se purgare, is qui accusatur per Dei Iudicium, scilicet, per calidum ferrum vel per aquam pro diversitate Conditionis hominum, scilicet, per ferrum Calidum si sit homo liber, per * aquam si fuerit Rusticus*. In such case the accused person was bound to purge himself by Judgment of God, to wit, by Hot Iron or by Water, &c. Gervase of Tilbury likewise tells us, That *Judicia* were *Leges candentis ferri vel Aquæ*. De Observand. Scaccarii, Lib. 2. Tit. or. C. 8.

* If these Laws were his, he published them presently after his first Entrance before he had wholly subdued the Nation.

*Tis recorded in Doomsday of the Towns and Lands belonging to the Liberty of Cantone, *de his omnibus terris facturi Sacramentum, vel Iudicium portaturi, ad Cantone veniunt*. Ibidem. f. 87. b. col. 1.

This carrying of Hot Iron, was taking a piece of Red Hot Iron of a Pound weight into the hand, which was called simple Ordal, and carrying it the time of nine steps or paces, and if it was three Pound weight it was *Triplex Ordalium*. See Olaus Norm. Monumenta Danica, lib. 1. cap. 11.

Judicium in nullo loco portetur nisi in Episcopali sede aut in illo loco quem Episcopus ad hoc Constituerit. Monast. Angl. vol. 3. f. 308. col. 2. lin. 3.

See more in the Discourse about Ordal in the Saxon Story.

* That is, as they try Witches whether he would sink or swim.

Liberi

Liberi Homines, Libere Tenentes.

In Selden's
Notes on
Eadm. LL. 55.

Ibid. LL. 59.

Ibid. LL. 58.

Chap. des Feifs
& Droits Fec-
daux, fol. 113.

Soccagers.

Malmsh fol. 93
a. ii. 30.

Liberi Homines most properly were those which held in Military, or Knights Service, and in this sense of the words, all the Earls, Barons, Knights, and others that held Knights Fees, or part of Knights Fees, were called and esteemed Freemen. Of these Freemen there is often mention in William the Conqueror's Laws. *Volumus etiam & firmiter præcipimus & concedimus ut omnes Liberi Homines totius Monarchie regni nostri, teneant terras suas & possessiones libere ab omni exactione injusta & ab omni Tallagio, &c. Ita ut nihil ab iis capiatur nisi serbitium suum liberum, &c.* This was Military Service, called Free, in respect of other Base Services. *Statuimus etiam & firmiter præcipimus, ut omnes liberi homines totius Regni, sint fratres Conjurati ad Monarchiam nostram defendendam.*

Statuimus etiam & firmiter præcipimus ut omnes Comites & Barones, & Milites & Serbientes, & universi Liberi Homines totius Regni habeant & teneant se semper bene in Armis & in equis ut decet & oportet, & quod sint semper prompti & bene parati ad serbitium suum integrum nobis Explendum & peragendum, cum semper opus fuerit, secundum quod nobis de feodis debent & Tenementis de Jure facere. These Liberi Homines were the same in all three Laws.

Berault, upon the Customs of Normandy, gives from Coquille a brief account of Free Fees, and Freemen, or Gentlemen. *Sur le declin de l'Empire Romain les François (ainsi dit de Franconie Province d'Allemagne) apres avoir Conqueste les Gaules, sur les Romains à limitation d'iceux Distribuerunt les Domaines de leur Conquests aux Soldats qui avoient esté avec eux victorieux & iceux retindrent a eux seuls la dignité d'Estré Gentils Hommes. Pour avoir droit de manier les armes, & aux Gaulois vassaux qui Essoient les anciens habitans du pays appelez Roturiers ils osterent l'usage des armes leur Reservant le Menage Rustique & la Marchandise. De ce tems la est venue la Distinction des Nobles & des Roturiers, & la loy par laquelle les Roturiers ne peuvent tenir Fiefs Nobles. Car il est certain que tous personnes n'estoient pas anciennement capables de tenir Fiefs Nobles, il n'y avoit que les hommes nobles Francs et exempts de payer Tailles et Subsidies, c'est pourquoy tels Fiefs estoient appelez Francs. But in France, as well as here, in process of time, the Law became more easie, by the Relaxation of the Feudal Law, and daily use, almost all Men became capable of purchasing, holding, or receiving ex dono these Fees, however those that held them were most properly accounted Freemen, and Free Tenents.*

Williclmo Filio Hen. primi omnes Liberi Homines Angliæ et Normannie cujuscunque ordinis et dignitatis, cujuscunque Domini Fideles manibus et Sacramento se dedere coacti sunt. These were all Tenents in Military Service, and all Feudataries, or Vassals, of what Lord soever.

Florence of Worcester relates how the Nobility performed this, *Conventio Optimatum et Baronum totius Angliæ apud Seresberiam 14 Calendarum Aprilis facta est. Qui presentia Regis Hen. Homagium filio suo Gulielmo fecerunt, et Fidelitatem ei juraverunt.*

Fol. 657.

A *Eadmer* says, 13 Calend. Aprilis factus est *Conventus Episcoporum, Abbatum, et Principum totius Regni apud Serberiam cogente eos illuc Sanctione Regis. Igitur agnita Regis voluntate mox ad nutum ejus omnes Principes facti sunt homines ipsius Willielmi, fide et Sacramento confirmati. Radulphus autem Archi-Episcopus Cantuariensis et alii Episcopi atque Abbates Regni Anglorum Fide et Sacramento professi sunt, se Regnum et Regni Coronam si defuncto patre suo superviverent, in eum, ommissa omni Calumnia et occasione translaturus, eique cum Rex foret Hominia fidei mente facturos.*

Fol. 117. n. 30. 40.

B In a Warrant 14 Johan. to all the Sheriffs in England, the noted and usual *Freemen* are discovered; *Summone per bonos Summonitores, Comites, Barones, Milites, et omnes Liberos Homines et Servientes, vel quicunque sint vel de Quocunque Teneant, qui arma habere debent, vel arma habere possunt, et qui Homagium nobis et Ligantiam fecerunt, &c.*

Mat. Paris, fol. 233. n. 50. &c.

C *Rex dilectis et Fidelibus suis Militibus et Liberis Hominibus de Com. Southampton, &c. vobis Rogamus Mandantes, &c. ad nos sitis cum Equis et Armis et toto posse vestro apud Oxon, &c.* These *Liberi Homines* were *Tenents* in *Military Service*. *Hæc est conventio inter Dominum Johannem Regem Angliæ ex una parte et Robertum filium Walteri Marecallum Exercitus Dei et Sanctæ Ecclesiæ in Anglia et Comitem Richardum de Clare, and five Earls more, and six Barons there named, et alios Comites et Barones et Liberos Homines totius regni ex altera parte: These Liberi Homines* were the other *Tenents in Capite*, or at least their *Retinue*, and *Tenents in Military Service*, which were with them at *Bunnemedes*, where this *Agreement* was made.

48 Hen. 3. M. 18. Dorf.

Cl. 17 Johan. M. 21. Dorf.

E These *Liberi Homines*, or *Freemen*, were the only Men of *Honor, Faith, Trust* and *Reputation* in the Kingdom; and from amongst such as these, which were not *Barons*, the *Knights* did chuse *Jury-men*, served on *Juries* themselves, bare *Offices*, and *Dispatcht* all *Country-Business*.

Pat. 42 Hen. 2. M. 3. Dorsetshire.

Pat. 42 Hen. 3. M. 3. Hertf. And so to other Sheriffs through England.

F These were the *Freemen* which made such a *Cry* for their *Liberties*, (as appears by *Magna Charta*, most of which is only an *Abatement* of the *Rigour*, and a *Relaxation* of the *Feudal Tenures*) the rest were but only *Followers*, and helped to *augment* the *Noise*; they were no *Law-Makers*, as this Gentleman fondly imagines; for 'tis not probable, that those Men that had the *Force* of the Nation, would permit Men of *small Reputation* to share with them in *Law-Making*. Those that had the *Power* of this, and other Nations *de facto*, always did give *Laws*, and *Tax* the People.

And so did the *Tenents in Capite* tax themselves, and all other *Tenents* and *Freemen* of *England* in those times we are writing of, as also did the *Citizens* and *Burgesses*, *Civitatum & Burgorum Dominicorum Regis*, (for indeed all *Cities* and *Burghs* by reason of their *Trading*

* Pat. 30 Ed. 1.
M. 1. Pat. 35.
Ed. 1. M. 45.
& Breve E. 1.
inter Com-
munia Brev. in
Scaccar. Ter.
Trin. An.
Regn. 34 in
Append. & fin.
20 E. 3. M. 7.

Claus. 4 Hen. 3.
M. 5. Dors. Ap-
pend. Record
12.

* Fideles here
were the
Kings Feuda-
taries: See
here the word
Regnum.

Mat. Paris, f.
322. lin. A. D.
1224. 8 Hen. 3.

Ibidem.
* That is, the
Book of the
Prior y there.

Pat. 15 Hen. 3.
M. 3. Append.
Record 13.

Privileges were such, and therefore chiefly so called) as will be made evident upon another occasion. This hath been partly proved by several * Records produced in the Explication of the words *Communitas Regni*, and in the Animadversions on *Jani Anglor. facies nova*, 169. D. 170. A. 221. A. B. C. &c. and shall be further proved by these following.

*Rex Vicecom. Northampton, salutem. Scias quod pro magna necessitate nostra & ingentissima Debitorum nostrorum instantia, necnon & pro Conservatione Terre nostre Pictav. Concesserunt nobis sui gratia Communititer omnes Magnates & * Fideles totius Regni nostri. Donum nobis faciendum, scilicet de qualibet Caruca sicut juncta fuit Craistino Beati Johannis proxime preterito Anno Regni nostri quarto Duos Solidos per manum tuam & Duorum de Legalioribus Militibus Comitatus tui Colligendos, qui de voluntate & Consilio [*] omnium de Comitatu in pleno Comitatu Eligentur ad hoc faciendum, &c.*

The Soldiers of *Falcatus de Brent* took *Henry de Braybrooke*, one of the Kings Justices, Prisoner when he was at *Dunstable* Trying of Causes, and carried him to *Bedford-Castle*. The King sent and demanded him; The Governour of the Castle denied to deliver him: The King by advice of the [*] Clergy and Laity then in a great Council at *Northampton*, besieged and took the Castle, and towards his Expences, *Regi vero pro maximis Expensis & laboribus suis tam à Prælatibus quam à Laicis, Concessum est per totam Angliam Carucagium de qualibet Caruca duo solidi argenti: Magnatibus item Concessit Rex Scutagium: Videlicet de quolibet Scuto Duas Marcas sterlingorum.* The Scutage granted by the King to the great Men, was from their Tenents in Military Service, and it was to such as were with the King at the Siege of the Castle.

The Chronicle of * *Dunstable*, where the Justice was taken, reports the Gift of this *Ayd* to have been otherwise, speaking of besting the Castle as above, *Archiepiscopus, Episcopi & Abbates Suffraganei Concesserunt Regi in Auxilium, Carbagium, scilicet Dimid. Marc. de singulis Carucis Dominicis, & Duos Solidos de singulis Carucis Tenentium suorum.*

Rex omnibus, &c. Salutem. Cum peteremus & Prælatibus Angliæ quod nobis Auxilium facerent pro Magna necessitate nostra de qua eis Constabat, videlicet Episcopis, Abbatibus, Abbatissis, Prioribus, Priorissis, qui de nobis Tenent in Capite, ipsi nobis liberaliter Concesserunt Auxilium tale. Scilicet de singulis Feodis Militum [] suorum Quadraginta Solidos, de tot feodis de quot ipsi tenentur nobis respondere quando faciunt nobis Servitium Militare. Et Nos Concessimus eisdem Prælatibus quod ad prædium Auxilium nobis faciendum, habeant de singulis Feodis Militum quæ de eis tenentur quadraginta Solidos, &c.*

[*] What these *Omnes de Comitatu* were, See Pat. 9. Hen. 3. M. 7. Dors. here in Append. Record 16.

[**] *Cum Dominus Rex cum Clero & Baronibus Regni apud Northampton tractaret, &c. Chron. Dunstapliæ in Bib. Cotton. Tiber. A. 10. f. 21. a.*

[*] This quite spoils Mr. *Pety's* Comment upon the memorable Record concerning the Prior of *Coventry*, which he happily found in the Exchequer. Append. to Rights of the Commons, &c. p. 141. 178.

A *Rex Vicecom. Somerset, salutem. Scias quod Comites & Barones & omnes alii de Toto Regno nostro Anglie spontanea voluntate sua & sine consuetudine concesserunt nobis efficax Auxilium ad magna negotia nostra Expedienda, unde provisum est de consilio eorum, quod habeamus de singulis feodis Militum, que de nobis Tenent in Capite. Et de Wardis tam de novo feofamento quam de veteri duas Marcas ad Auxilium prædictum nobis faciendum, &c.*

B *Rex Vicecom. Kanc. salutem. Scias quod cum in Octabis sancti Hilarii Anno, &c. 21. ad mandatum nostrum convenirent apud Westmonasterium Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones totius Regni nostri, &c. Idem Archiepiscopi, Abbates, Priores & Clerici Terras habentes que ad Ecclesias suas non pertinent. Comites, Barones & Liberi Homines pro se & suis Villanis nobis Concesserunt in Auxilium tricesimam partem omnium Mobilium, &c.*

In the Ninth of King Henry the Third, the *Tenents in Capite, that is, the Arch-Bishops, Bishops, Earls, Barons Abbats and Priors, gave a 15th part of all the Goods as well of Ecclesiasticks as Laicks for the Grant of Magna Charta.

C In the 54th of his Reign they gave him a 20th part of all the movables of the Kingdom; and because the Prelates, great Men and Community of the Kingdom thought it not expedient (*Quia tamen Prælati, Magnatibus & Communitati Regni nostri non videtur Expediens, &c.*) for him to undertake the Cross and Voyage into the Holy Land, by the advice of the foresaid Prelates and great Men (*Consilio prædictorum Prælatorum & Magnatum*) his Son Edward was directed to undertake that Service, and had the 20th part assigned to him by the King.

D In the Seventh of the same King there was a Poll or General Head-Tax Granted, *coram nobis & Consilio nostro presentibus Archiepiscopo Cantuariensi, Episcopis, Comitibus Baronibus, & Magnatibus nostris de communi omnium voluntate*, before the King and his Council, by the common consent of the Archb shop of Canturbury, the Bishops, Earls, Barons, and the Kings Great Men.

E That many of these Tenents in Capite, those of the ordinary Community especially, were Libere Tenentes, Freeholders of the King in Capite, or Military service, is beyond all doubt. *Rex Vicecom. Bedford & Buks, salutem. Quia sumonitionem factam Archiepiscopis, Episcopis, Abbat. Prioribus, Comitibus, Baronibus, Militibus, Libere Tenentibus, & aliis qui de nobis tenent in Capite per servitium militare vel Serjantia, &c.*

F *Rex Vicecom. Northampton. salutem. Præcipimus tibi sicut alias præcipimus firmiter injungentes quod sumoneri facias Archiepiscopos, Episcopos, Comites, Barones, Abbates & Priores, Milites & Liberos homines qui de nobis tenent in Capite per servitium Militare, vel Serjantiam, &c.*

Claus. 19 H. 3. M. 6. Dorf. Append. Record 14.

* See who the Omnes alii de Toto Regno were in the Explication of the word Regnum, &c.

Cl. 21 Hen. 3. M. 7. Dorf.

* Such as had Knights Fees, or part of Knights Fees that held in Capite belonging to their Benefices, as there are several Maners belonging to Rectories.

* See Answer to Mr. Peyt, f. 126.

Pat. 54 Hen. 3. M. 7. De signo Crucis tradito E. primogenito Regis & 20. sibi Concessa.

Rot. Claus. 7 Hen. 3. M. 23. Dorf. Auxilium Concessum in subsidium Terræ Sanctæ. Append. Record 17.

Claus. 7 Hen. 3. M. 10. Dorf.

Cl. 26 Hen. 3. M. 7. Dorf.

Cl. 24 Hen. 3.
M. 2. Dorf.
Breve Placito-
rum de Fore-
sta.

Rex Vicecom. Bucks, &c. Sumone per bonos Sumonitores, Archiepiscopos, Episcopos, Priores, Comites Barones, Milites & Libere Tenentes, qui Terras vel Tenementa habent infra metas Foreste, &c. There can scarce be any doubt made, but these were such **Libere Tenentes**, such *Freeholders* as above, or *Freeholders* of other persons in Military Service.

Rot. Cl. 9 H. 3.
M. 9. Dorf.

Rex Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus, libere tenentibus & omnibus aliis de Comitatu Eborum, cum Probiis hominibus nostris de Regno nostro libertates concesserimus per Cartas nostras, &c. and these the same **Libere Tenentes**, being joyned with the same orders of Men. And note, *probi homines nostri* were the Kings *Tenents in Capite*.

There were Knights and Freeholders also in Military Service, which held of the Bishops, Abbats, &c. of the Earls, Barons, and other great Men. *Distingas omnes Milites & Libere Tenentes qui de eis tenent per servitium Militare & Ballivam tua, &c.* See Record 14. and 15. in the Appendix.

Glanv. lib. 2.
cap. 10. 11.
lib. 9 c. 7.
The *Liberi Homines* which served on Juries, were *Milites*, and Tenents in Military Service.
Ibidem, lib. 2.
c. 21.

These were the **Liberi & Legales homines**, the Freemen which Glanville so often mentions; *Ut per quatuor Milites Legales de Comitatu & viceneto, Eligantur 12 Milites Legales de eodem viceneto qui super eodem die coram me vel Iusticiis meis ad locum illum parati recognoscere utrum R. vel N. Majus jus habet in una hida terre, &c.* And the finding out of Truth, and the Tryal so much depended upon these *Milites*, Tenents in Military Service, as it was a Quere in Glanvils time, That if there were no *Milites*, or not twelve to be found in the *Vicenage*, or the Country, whether or how the Demandant, or Tenent, could have right done them.

Cap. 12.

Magna Charta tells us, that *Affizes of Novel Disseisin*, and *Mort Dancestor*, shall be taken in the Counties by the Justices, and Knights of the Shire, which afterwards dwindled into *Freeholders* of Forty Shillings per annum. Of these Men it is and their Services that Bracton says, They were so notoriously Free, that in Writs of Right it was never mentioned, because so well known, *Notandum in Servitio Militari, non dicitur per Liberum Serbitum, & ideo, quod constat, quia tale Serbitum liberum est.* Cragius says Knights Fees were of the greatest dignity amongst all Nations, and were preferred before all other kinds of Fees. *Feudi Militaris dignitas Maxima est, & apud omnes nationes, omnibus aliis feudozum generibus praeferitur.*

Lib. 5. cap. 2.
fol. 328. a.

Military Service the most Free Service.

Crag. de Feud. f. 60.

These were the Men that were Jurors, and made Presentments in pleas of the Crown, according to the forms of proceeding in them.

Forma Procedendi in Placitis Corone Regis.

Imprimis eligendi sunt 4 Milites de toto Comitatu, qui per sacramentum suum Eligant duos legales Milites de quolibet Hundredo vel Wapentachio, et illi duo Eligant supra sacrum suum Decem Milites de singulis Hundredis vel Wapentachiis, vel si Milites defuerint, Legales et Liberos Homines, Ita quod illi Duodecim insimul Respondeant de omnibus Capitulis (all the Articles) de toto Hundredo et Wapentatto. Bracton says, Quatuor Milites Eligeant in quolibet hundredo 12 Milites vel 12 Liberos et Legales homines, si Milites non inveniuntur, to be Jurors in pleas of the Crown, Coram Iusticiariis in Comitatibus. Fleta hath it, that these four shall chuse twelve de Melioribus de qualibet Ballivia, that is, Hundred, or Wapentake.

Hoveden, fol. 423. a. n. 40. in the time of Rich. 1.

The Jurors in Pleas of the Crown were Milites, and Military Tenants, the same with Probi & Legales Homines.

Fol. 116. n. 3. Others which held half Fees, third or fourth part of Fees, &c. Lib. 1. c. 19. fol. 23.

Other Freeman there were in those times, but what their Quality was, further than that their persons and blood was Free; that is, that they were not Nativi, or Bondmen, it will give a knowing Man trouble to discover it to us. We find in every leaf, and almost every Entry upon that leaf of Domesday, Socmen, et Liberi homines, Possessors of small parcells of Land, but what their quality was, and of what interest in the Nation, I shall discover upon another occasion. The freemen there, or Tains, Thengs, which are said to possess Maners, Towns, or great parts of Towns, very many whereof are found in the Countries bordering upon Wales, with this addition, et liber homo fuit, or potuit ire quo voluit, were the same with Milites, et liber homo attributed to such possessors was the same with Miles.

There were besides these liberi homines, Free-Tenents also (which perhaps might not always be Freeman.) King John, Anno Dom. 1202, by Galfrid Fitz-petre, Justiciary of England, wrote Letters to all his Earls, and Barons, to perswade, and induce them to collect the fortieth part of their Rents towards the Relief of the Holy Land, of every of their Towns, as it might be let to Farm by the year, et si in eadem villa fuerint per Servitium Militare tenentes dent Quadragessimam portionem modo predicto, si autem fuerint Liberi Tenentes similiter dent eandem portionem modo predicto, Computato redditu, quem Dominis suis solverint per annum, the Rent the Free Tenents paid to their Lords being discounted; which then if not the full, yet it was a considerable part of the True Value.

Hoveden, fol. 471. a. n. 30.

Free Tenements, and Free Tenents, besides those in Military Service, are mentioned in Magna Charta, Nullus distringatur ad faciendum majus Serbitum de Feodo Militis, nec de alio libero Tenemento, quam inde debetur. See in the Title Knights Fees, &c. for Fee Farms, and Frank Tenements, &c.

Cap. 10.

But these were not the Ordinary Freeman, or the bulk and multitude of the Freeman, or small Freeholders, who in those times were of no great esteem or value in the eye of the Law, for they, as well

LL. Ethelred,
c. 1.

Britton, c. 29.
p. 72. b.

These could
not be Probi
& Legales Ho-
mines.

Ibid. fol. 73. b.

Magna Char-
ta, c. 35.
Cokes second
Instit. f. 73.
Bracton, p. 124
b.

Ibidem.

Ibid. p. 71. b.

Ibid. p. 71. a.

Ten Groats
per annum
then, was
more than
Forty Shillings
per annum
now.

as the ordinary Freemen in the Saxons times, were all bound with Sureties to their good behaviors; Every Saxon Freeman had his Undertakers, that he should do every Man right, and make satisfaction for the Crimes he committed. The Freemen, Masters of Families, their Sons at Fourteen years of age, and all other Freemen, were cast into Decuries or Tithings; Hors pris Clercs & Chivalers et leur Enfaunts et Femmes, except Clercs, Milites, their Children and Women: That is, ten Freemen, or Free Pledges, were bound all for one another, and were to bring the offending person amongst them to Justice, or to make satisfaction for the Crime he committed, if they could not do it; The chief of these was called the Tithingman, or Capital Pledge, who, if he had not his Tithing full, that is, ten free Pledges so bound, one for another, he was to be amerced, and so were all such Freemen as ought to be in one Tithing or another, and were not, to be Amerced, and also such as received any Freemen, that ought to be, and were not in any Tithing, or that gave them Meat and Drink, were to be Amerced.

*Fuit autem * Usus de frank-plegiis sic videlicet, quod pax nostra teneatur et quod Tithinga teneatur integra sicut esse consuevit.* Let the View of pledges or sureties for Freemen be made so that our peace may be kept. The main-end of this Institution and Law was for keeping the Kings peace. The Franke plege or Tithing consisted of ten households, and these ten Masters of Families were bound every one for other, and for one anothers Family, that each Man of their Family should stand to the Law, or if he were not forth coming, that they should answer for the Injury or Offence.

The Courts in which the Misdemeanors of these Men were at first punished, but at length presented only, were the Sheriffs Turns; which in process of time, for the ease of the people, were kept in every Hundred: The Stile of the Court was the View, or Court of Franc Pledges, or Freemen cast into Tithings, which View of Free Pledges was also for the ease of the people, granted to Lords of Maners by the King, to have the view of Tenents and Resiants within their Maners. All Freemen that lived within the Hundred, except Earls, Prelates, Barons, and Religious Men, ought Service, and were bound to appear at this Court held twice in the year. For though the Military Fees were sufficient Pledges for Military Tenents, yet they were bound to serve upon the Jury, which was to give in the last Presentment, to the Sheriff under their Seals, which were twelve persons of the most Sage, Loyal, or Legal and sufficient of the whole Hundred, chosen and sworn by the Sheriff, who were to take the Presentments of the chief pledges, and others upon oath, and after they had examined, whether those Presentments were true or false, accordingly, upon certain Articles, they gave in Presentments to the Sheriff. See more of this matter in Magna Charta, c. 35. Cokes second Instit. fol. 71. Fourth Instit. fol. 259. 261. Pultons Stat. 17 Edw. 2. fol. 108. Britton, c. 29. I think no sober Man will say, that these Freemen, or Freeholders of some small parcels of Land, to the value perhaps, in those days, of some Ten Groats per annum, were members of our Common Councils, or Parliament.

Magnates,

Magnates, & Proceres.

FOr the meaning of these words, I shall refer the Reader only to these Writs of Summons here cited, 18 Ed. 1. f. 149. E. Cl. 22 Ed. 1. M. 6. Dorf. f. 151. C. Cl. 28 Ed. 1. M. 3. Dorf. f. 152. Cl. 20 Ed. 2. M. 4. Dorf. f. 157. F. *Bundel of Writs of Summons*, 26 Ed. 3. f. 158. D. And to Mr. Fitz-Harris his Arraignment and Plea, fol. 4. A. D. 1681. Until the Scriblers can make it good by Authentick Proof either of Record or History, that these words are applyed to ordinary Freeholders, and that they are frequently intended by them, as they often insinuate under such Expressions as these, *Magnates & Proceres*, words of large extent, words applicable to Commons, &c.

Præpositus & Quatuor de unaquaque Villa.

JUstitiariis Forestarum Itinerantibus, præceptum est ex parte Regis, ut per singulos Comitatus per quos ipsi ituri essent, convenirent coram eis ad placita forestæ Archiepiscopi, Episcopi, Comites et Barones, et omnes Libere Tenentes, et de unaquaque Villa Præpositus et Quatuor Homines ad audienda præcepta Regis, &c.

Hoved. f. 445.
b. n. 40. A.D.
1198. 9 Ric 1.

Rex Vicecom. Bucks, salutem. Sumone per Bonos Summonitores Archiepiscopos, Episcopos, Priores, Comites, Barones, Milites, Libere Tenentes qui Terras et Tenementa habent infra Metas Forestæ nostræ in Balliva tua. Summone etiam de qualibet Villa Comitatus tui infra Metas Forestæ nostræ Quatuor Homines cum Præposito Villarum, &c.

Cl. 24 Hen. 3.
M. 2. Dorf.
Breve placitorum de Foresta.

This Præpositus is commonly taken to be the Constable, or as in some places they call him, though very ignorantly, the Headborough of the Town: But 'tis a great mistake; for he in Pleas of the Forest, at the County-Court, and Sheriffs Turn, represented the Lord of the Maner, whereof he was the Præpositus, and he was no other than the Lords Reeve, or as now called, his Bayliff, one that managed his Maner and Lands for him. * Sometimes he is called Serbiens Villæ, and if more Lords than one in a Town, then Serbientes Villæ. The Lord answered for the Town where he was Resident, where he was not his Dapifer or Seneschal, if he were a Baron; but if neither of them could be present, then the Reeve, and four of the best Men of the Town. Si quis Baronum Regis vel aliorum Comitatus secundum Legem interfuerit, Totam terram quam illic in Dominico suo habet * acquietare poterit. Eodem modo est si Dapifer ejus legitime fuerit, si uterque necessario desit, Præpositus et Sacerdos, et Quatuor de Melioribus Villa assint, pro omnibus qui non erant nominati ad Placitum somoniti. This Officer by the name of Præpositus, or Regis Præpositus, often occurs in Doomsday in the Description of several Villages, and as a Manager of the Village as in the Kings Hands. I have now by me an Account of the Præpositus of Winebodesham, a Town in the Hundred or Liberty of Clacklos in the County of Norffolk, once belonging to the Abby of Ramsey, by the Hand I

* See here
Record 17.

LL. Hen. 1.
Cap. 7.

* i. e. Secure
it from dis-
tricks.

guess it to have been made about the time of *Edward the Third*, which begins in the form following.

Wynbodesham

Anno Domini Ranulphi Vicesimo die Sancti Edmundi Regis, reddit Johannes Præpositus de Wynbodesham Compotum suum à Festo Sancti Michaelis Anno ejusdem Decimo nono usque ad Festum Sancti Michaelis proximè sequens, &c. And then he sets down the Rents received, and what Money taken for Goods; next what *Expences*, and what laid out for Goods bought in; and then afterwards gives an account what was then remaining in the Grange, what *Wheat*, what *Rye*, what *Barley*, *Oats*, *Pease*; What *Stock* of *Great Cattle*, what *Sheep*, *Hogs*, &c. What in the *Larder*, what in the *Diary* or *Dairy*, what *Geese* and *Ducks*, what *Hens*, what *Eggs*, what *Utenfils* in the House, and *Implements* of *Husbandry* abroad, and this gives us the *Certainty* of the meaning of the word.

Knighton, Col.
2557. n. 4. Ar-
tic. 7. A. D.
1330.

Amongst the *Articles* against *Roger Mortemer* this was one, *Ensy le dit Roger de Mortimer, in Desceivance manere fist les Chivalers dez Countez al dit Parliment al Roy de Chescune vile Dengleterre que Respont per Quatre & le Probost En Eyr une homme de armes à leur Costages en sa Guerre de Gascoyn par une an la quele charge le dit Roger avoit Compasse, &c. en Destruccion de Peuple.* Also the said *Roger* in deceitful manner made the *Knights* of *Counties* to charge a *Man at Arms* upon every *Town* that answered in the *Iter* by *four* and the *Beebe*, to be maintained one year in the *War* of *Gascoyn*, &c.

*That is, when
the Itinerant
Justices went
their Circuit.

What this *Præpositus* or *Beebe* was, or for whom he and the *four* came to answer, is scarce now known. They come to answer for the *Town*, as they believe, and of meer course, the *Lord* never taking notice of them, nor they of him. I have by mean Extract of a *Turn* holden for the *Liberty* of *Clacklog* above-mentioned, which was holden *April* the fifth, 3 *Car.* 1. in which the *Beebe* and *four* for every *Town* were Fined 12 *d.* a Head.

Clacklos-Hill. Extract of the *Turn* there holden on *Thursday* the fifth of *April*, *Anno Caroli, &c. Tertio, A. D.* 1627.

Sotherie. Of the *Four* and the *Beebe* there, for Default of Suit of Court, 5 *s.*

Helgay. Of the *Township* there for Default of *Four* and the *Beebe*, 5 *s.*

Stoke cum Wretton. Of the *Township* there for Default of three of the *Four* and the *Beebe*, 3 *s.*

And so more or less according to the *Appearance* of all the *Towns* in the *Hundred*.

Being very inquisitive to find out what sort of *Persons* now made their *Appearance* in the *Turns* of this *Liberty*, and how they were sent thither, I received this Exact Account from an *Ingenious* Friend that lives within it.

S I R,

“ I Hereby present you with the exactest Information I could obtain
 “ concerning the Manner of keeping the Court called the Sheriffs
 “ Turn within our *Hundred of Clacklos*, tho’ I believe the present pra-
 “ ctice to be very different, from what it was in its first Institution :
 A “ Generally there are four Men and a Reeve warned out of every Town
 “ to appear, the four Men are now taken or sent *promiscuously*, such
 “ as are best at leisure to attend, though formerly every House did ob-
 “ serve its course, and keep its turn yearly until they passed through
 “ their Respective Towns, some Houses finding a Man and half, some-
 “ times two Houses joyned towards sending one Man ; but this order
 “ being neglected, if they send any four persons with a Reeve they
 “ discharge their Duty. The Reeve I suppose was the Bayliff of the
 B “ Lord of the Maner, or chief Tenent dwelling in the Maner House ;
 “ for as to the later it is observed still in some Towns, the *Maner*
 “ house constantly finding one Man whom they term a Reeve. The
 “ Constables are no more concerned in this Business than any other
 “ Inhabitants, only upon the neglect of any Town for non-appearance,
 “ the Bayliff of the Hundred takes distress of the Constable for the se-
 “ veral Forfeitures made, which is twelve pence a Man. The place of
 “ calling this Court is at the *Hill* called by the name of the *Hundred*.

C
Sept. 12. 1683.

The very same Account I received from the Bayliff of the Hundred ;
 and I have perused several ancient *Suit-Rolls* now in the possession of
 Sir Thomas Hare Baronet, the Lord of this *Liberty*, by which it
 appears, that all the Lords of *Maners* within the *Liberty* or their *Te-*
 D *nants*, and all Men of considerable Estates there, were *Suitors* to the
Turn, to inform the Steward what Crimes had been committed in
 their respective Towns contrary to the Laws and Peace of the Nation.
 And as in process of time inconsiderable Men appeared at *County*, *Tri-*
bunge, *Wapentack* and *Hundred Courts*, by reason of the great *Suitors*
 having * *Liberty* to make their Attorneys, so it might happen in the
 Sheriffs Turn by the Negligence or *Connivance* of the Sheriff, or *Ste-*
 wards of *Liberties*, or for that the pleas might be removed to the *Affizes*
 E before the *Justices* that came twice in a year.

The *Præpositus* or Reeve according to * *Flota* was an Officer under
 the *Seneschal* or Bayliff, who looked after the *Kings* or other *Lords*
Affairs, in their Villages, as *Tillage*, *Cattle*, *Pasture*, &c. where see his
 Office described. *Misit Rex literas ad omnes Vicecomites Regni Anglie*
præcipiens, ut de singulis Dominicorum suorum Villis, (such Towns as
 they kept in their own hands) *Quatuor legales homines cum * præ-*
 F *posito apud sanctum Albanum pridie nonas Augusti facerent Convenire*
ut per illos & alios ministros suos de Damnis singulorum Episcopo-
rum, & ablatiis certitudinem Inquireret.

* See Stat. of
Merton, c. 10.* Lib. 2. c. 76.
P. 164.Mat. Paris. f.
239. n. 20.* These were
the Bishops
Reeves, that
managed
those Lands
for them.

*Probi Homines, Probi & Legales Milites,
Probi & Legales Homines.*

PROBUS Homo in such times as the words were understood, did not signifie an ordinary, or (as now they call him) an honest, though inconsiderable ignorant Country, or other Man; but on the contrary, the *Probi Homines* were *Famous, Stout, or Noted Men, Dominales, Men of Renown, or great Report, Integrity and Resolution.* *Mauritius Giraldi filius Stephanidæ frater uterinus, vir probus & prudens.* This was *Maurice Fitz-Girald*, one of the first *Adventurers* in the *Conquest of Ireland*. Peace was made between the *Kings of England and France*, as the same Historian tells us, *interventu proborum Cirozum & præcipue Philippi Flandrensum Comitæ.* After the Victory of *King Henry the Second* over the *Scots*, and *Earl of Leicester*, the same Historian speaking of the flourishing condition of *England*, says it happened, *præsidente probò prudentique viro, & inter utramque fortunam fidelissimo* (to the Father against the *Conspiracy* of his Sons and many of the Nobility) *Ranulpho Glanvillensi.* To whom he gives these Additions and Epithets, and names him *Virum magnificum Ranulphum Glanvillensem principalem & præcipuum Regis & Regni Consiliarium & Angliæ totius Iusticiarium.*

Probi Homines were not only ordinary Men, void of such notorious Crimes as were under the correction of the Law; But *Probitas* implied *Activity, Understanding, Ability, and Virtuous Actions.* *Johannes de Curci de Dubliniensium familia, paucos sibi alliciens, sed probos, sed strenuos, sed electos cum militibus viginti duobus & aliis 300 Ultoniam aggreditur.* *Hugo de Lacy vir probitate pollens & prudentia;* he was than Governor of all *Ireland* under *Henry the Second*, *inter Procere Regis Anglorum qui erant in Hibernia, Hugo de Lacy præcipuus & præpollens habebatur,* *Guliel. Neubrig. lib. 3. c. 9.* *Esbernus frater Absolonis Archiepiscopi, probitates & gesta majorum Commemorando plures ad Iter Hierosolymitanum animaverat.* *Mat. Paris* speaking of *Edward the First*, *Erat Edwardus revera vir Magnæ probitatis et audaciæ fortis insuper supra Modum.*

The very learned *Du Fresne* in his Glossary says, *probus* is the same with *preux* in French, which signifies *Virilem animo valens*, a valiant Knight, or Soldier. *Cotgrave* translates it also, *Loyal, Faithful, Sincere, Honest, Virtuous, Worthy*, likewise *Discreet, Skilful, Ready.* And the same Glossarist says that *probitas* is the same with *Generositas*, or *animi magnitudo*; *Generosity and Greatness of Mind.* The Reader may see his Proofs for further satisfaction.

It will add much to the discovery of what the *Probi et Legales homines* were, by noting what the *Probi et Legales Milites* were. In the Summons to Parliament, Cl. 49. Hen. 3. To the Sheriff, *Venire facias Duos de Discretioribus et Legalioribus Militibus ejusdem Comitatus, &c.* and in the Writ for their Expences, *ibidem*, m. 10. Dors. their Reasonable Expences were to be Taxed *de Consilio Quatuor Legalium*

Girald. Cambren. Hibern. Expug. lib. 1. c. 3. f. 61. n. 50

Ibid. c. 13. f. 767. n. 40.

Ibid. c. 44. f. 782. n. 30.

Ibid lib. 2. c. 31 f. 805. n. 50. f. 806. lin. 1.

Ibid. c. 16. f. 794. lin. 1. & c.

Ibid. c. 17 f. 79. n. 30.

Kirchman. de professione Danorum in Terram Sanctam, c. 5. Paris, f. 1005. n. 30.

- Legalium Militum**; Citizens and Burgeses were to be of the same Quality. Cl. 49. Henry the Third. *In forma predicta scribitur Civibus Eborum, Civibus Lincoln et ceteris Burgis Angliae, quod mittant in forma predicta Duos de Discretioribus, Legalioribus, et Probioribus tam Civibus quam Burgesibus suis. Rex Vicecom. Eborum, &c. Tibi precipimus, &c. Duos de Probioribus et Legalioribus Militibus Comitatus tui eligi facias, Cl. 25. Ed. 1. M. 6. Dorset. Rex Vicecom. Suffex, salutem. Precipimus tibi quod diligenter inquiri facias in pleno * Comitatu tuo per sacramentum Duodecim de Legalioribus et Discretioribus Militibus Comitatus tui, per quos rei veritas melius sciri poterit* (this was the end and intention of the Institution of Enquests and Juries) *Quas Consuetudines et quas Libertates Dominus Johannes Rex pater noster, habuit in Balliva sua die qua Guerra incepit inter ipsum et Barones suos Angliae, &c. Cl. 7. Hen. 3. M. 14. Dorset. in the fourth of Henry the Third, Carucage was to be collected by two de Legalioribus Militibus Comitatus. See in Appendix Record 12. Rex Vicecom Huntingd. &c. Tibi precipimus quod de singulis Hundred. Comitatus predicti venire facias coram dilectis et fidelibus nostris Hen. de Bathonia, et Will. de Wiltonia quos ad hoc Justiciarios nostros assignavimus in Comitatu ad diem et locum quos predicti fideles nostri tibi scire facient, duodecim tam Milites quam alios Liberos et Legales Homines per quos hujusmodi Inquisitiones, &c. Cl. 44 Hen. 3. M. 14. Dorset. Rex, &c. Tibi precipimus, quod venire facias coram nobis a die sancti Johannis in tres septimanas ubicunque fuerimus in Anglia, Decem et Octo tam Milites quam Liberos et Legales Homines de Comitatu tuo per quos plenius Certiorari possumus super Articulis, &c. Cl. 51. Hen. 3. M. 4. Preceptum est Vicecomiti Cornubiæ, quod assumptis secum Duodecim de Legalioribus Militibus in Comitatu suo in propria persona sua accedat ad Terram Richardi Regis Alemannie in Tybosta et Bravel, et Terras Henrici de la Pomerey in Tregony, et per eorum Sacramentum fieri faciat Perambulationem, &c. Cl. 51 Hen. 3. M. 7. Rex dilectis et fidelibus suis Richardo de Fokerham et Osberto de Beresford, salutem. Sciatis quod assignavimus vos ad Inquirendum per sacramentum proborum et Legalium Hominum de Comitatibus Salop. Stafford. et Cestr. per quos, &c. de quibusdam Juribus, Libertatibus, et rebus aliis nos et statum nostrum, necnon et statum Communitatis Comitatum predictorum Contingentibus; et insuper de factis et gestibus Vicecomitum et Ballivorum quorumcunque in Comitatibus predictis, prout in Articulis quos vobis inde Tradimus plenius Continetur, &c. These Articles were in Number 34, and about such Matters as it was impossible for ordinary Country-Men ever to be instructed in, or understand them.*

* That was in a full County-Court.

Old Glanvil often mentions **Milites Legales**, that were to be summoned upon Juries, and **Liberos et Legales Homines** frequently, so the old Register, as also **Probos et Legales Homines**. What can be meant by these Restrictions upon Knights? and by these words **Probi, Discreti, Legales**? but that they were to be Knights of the best Estates, the best Understanding, most Integrity and Knowledge in the Affair they were to be employed: For many in those times there were, that were not such, when every Man that was Owner of a Knights Fee, or Twenty Pound per annum, might be compelled to be a Knight, there must needs then have been many of them unfit for the dispatch of publick Business. And what can be meant by **Probi, Liberi et Legales Homines**, and the Restrictions made by those words, but that they

they were to be Knights Fellows, and after *Knights*, Men of the best Estates, of the best *Understandings*, and most *Knowledge* in their Counties, and most fit for the *Dispatch* of publick Business; according to the meaning of the words *Duodecim tam Milites, quam alios Liberos & Legales Homines*, which were certainly *Tenents* in *Military Service*, as is clear from the word *alios*.

And it seems to me that the *Legales Milites* and the *Legales Homines*, in those times had not that *Epithet* given them, for that they were *within the Law*; that is, because they were not *Out-lawed*, *perjured*, &c. but because they were such as the Law by constant *usage* then required should serve on *Inquests* and *Juries*, that is, the most *discreet*, *just*, *knowing* and *resolute* Men in the Country. Nor is it credible that any Freeman that then perhaps might be possessed of Ten Groats, Five or Ten Shillings by the year of * *Freehold*, (a better Estate than our Forty Shillings a year now) were ever intended to be part of the *Probi & Legales Homines*, or reckoned amongst them, when they were bound to the Peace; and the Government and Law in those times did not think it safe for the Peace of the Nation to trust them with their own behaviour, seeing all such *Masters of Families* as these, were bound one for another, and for all their *Servants*, *Children*, and *Sojourners* by Tens. The *Probi Homines* then, were the best, chief, most *knowing*, and of the greatest *Integrity* of those *Orders* and *Degrees* of Men, to whom, and at the time the word *probus* or *probi* was very frequently, or if but seldom annexed, whether they they were *Barons*, *Knights*, *Freeholders* under that Degree, *Citizens* or *Burgesses*.

These inconsiderable Men were forced upon Jury-work; they went not, nor were they forward to go to the *Size*, and *Sessions*, (as they call them) upon which they now value themselves as the *Governors* of the Nation; but by *Knavery*, *Oppression* and *Bribery* were driven thither. For the *Military* and *Rich Men* finding it *troublesome* and *expensive*, threw the *Burthen* (as they always did) upon such as were not able to bear it, by *bribing* the *Sheriffs* and *Bayiffs* to omit them, and make their *Returns* of such sorry silly People as the Law never did, nor could intend for this truly *great Service*, which they could not understand. These ignorant Men were also forced upon this *Employment* they were not fit for, by the *Villany* and *Oppression* of *Sheriffs*, their *Bayliffs* and *Ministers*, by extorting *Money* from them, that they might be *spared*, and permitted to remain at home. And for this the Statute of *Westminster* the Second is good Authority, made in the 13th of *Edw. I. A. D. 1285*. * *Forasmuch also as Sheriffs, Hundreders, and Bayliffs of Liberties, have used to grieve those that be in subjection to them, putting into Juries and Assises Men diseased and decrepid, and having continual or suddain Disease, and Men also that dwelled not in the Country, at the time of the Summons, and summon also an unreasonable Multitude of Jurors for to extort Money from some of them, for letting them go in peace, and so the Assises and Juries pass many times by poor Men, and the rich Men abide at home, by reason of their Bribes: It is ordained that from henceforth, That in one Assise (i. e. Jury) no more shall be summoned than Twenty Four; and Old Men above Threescore and Ten Years, being continually sick, or being diseased at the time*

* What we call Freehold now, was not in those times really esteemed such, the Land in Military Tenure was, had chiefly that reputation.

* C. 38.

time of the Summons, or not dwelling in that County, shall not be put upon Juries of petit Assises; Nor any shall be put on Juries or Assises, though they ought to be taken in their own Shire, that may dispend less Land than Twenty Shillings yearly at the least; (That is, the twentieth part of a * Knights Fee.) And if such Assises and Juries be taken out of the Shire, none shall pass in them but such as may dispend Forty Shillings of Land by the year at the least: Except such as be * Witnesses in Deeds, or other Writings, whose presence is necessary so as they be able to travel.

* That is now
10 l. per an-
num.

* Antient Ju-
ries consisted
of such persons
that knew and
understood
the Contro-
versie, and
therefore
were called
Tesses, and
their Verdict
Testimonium.

This Law not being thought a sufficient Provision against these Oppressions, there was a Statute made in the 20th of this King, and in the year 1292. the Preamble whereof runs thus; For as much as the Lord our King, by the continual and grievous complaint of his inferiour people, doth perceive that divers persons being of least ability of this Realm, are many times intolerably troubled by Sheriffs and their Bayliffs, Bayliffs of Liberties, which Impanel them to the Recognisance of Assises, Juries, Inquests, and Attaints triable out of the Shires where they be dwelling, and do spare the rich people, and such as be more able, by whom the truth of the matter might be better known, &c. And then 'tis provided That None pass out of his proper County or Bayliwick, that hath not One hundred Shillings per Annum; (which was the fourth part of a Knights Fee) And none to be impanelled within the County that had not Forty Shillings by the year.

In the Statute called *Articuli supra Chartas*, C. 9. made in the 28th of this King, A. D. 1300. this Corruption having not been sufficiently prevented; The King willeth and commandeth, That no Sheriff nor Bayliff shall Impanel in Inquests nor in Juries, over many persons, nor others, nor otherwise than 'tis ordained by Statute, and that they shall put on those Inquests and Juries, such as be next Neighbours, most sufficient, and least suspicious; that is to say, not suspected to favour one party or other.

And in a Statute made at Westminster, in the 42^d of Edw. 3^d. A. D. 1368. C. 11. 'tis provided, That in all manner of Panels arraped by the Sheriffs, or Bayliffs within Franchise, shall be put the most substantial people, and worthy of credit, and not suspect, which have best knowledge of the truth, and be nearest.

For the same reasons, and by the same corrupt practices of Sheriffs and Bayliffs, this inferior sort of Men were driven to the County Courts, and by that means, as being forced to be Suitors there, became in process of time Electors of Parliament-Men, and by their numbers enabled to out-vote Men of Worth, Knowledge and Integrity, and of the greatest and best interest in their Country, especially since the Reign of Henry the Eighth. That a third part of the Lands in the Nation that belonged to Monasteries and Religious Houses were made to be of Soccage Tenure; which is now accounted Freehold, have been divided in small parcels amongst very ordinary Men.

Those that season the Noddles of these Men with strange Liberties they are born to, That the Power of Kings, and Origin and Authority of

of all Government in the World is derived from them; and perswade them 'tis their *Birth-right* to tread upon Kings, to set up, and pull down what Government they please; or that the Common Law of England hath invested them with *Uncontroulable Privileges*, and *Sacred Rights*, did either not know, or understand the Law of *Frankpledges*, in practice here both in the *Saxon* and succeeding times, nor did they ever dream or understand they were forced and driven into most of these great *Advantages* they pretend to; which better Men than themselves cast upon them as a *Burthen*, intending thereby to make them their *Drudges*.

Regnum & Sacerdotium; Regnum: Omnes de Regno; Alii de Regno; Homines de Regno; Homines Nostri de Regno.

Secular and Ecclesiastick Government and Power are meant and expressed by those words *Regnum* and *Sacerdotium*, and they occur often in old Historians: *Petrus de Marca*, Archbishop of Paris, hath written a large Book in Folio, *De Concordia & Discordia inter Regnum & Sacerdotium*, Pat. 16. Johan. Parte Prima, M. 1. Dorl. N. 3. *A tempore Ortæ Discordiæ inter Regnum & Sacerdotium*; and so Ibid. N. 4. Yet the Bishops and great Clergy, such as were Barons, or held *in Capite*, were comprehended in the word *Regnum*, or under the Secular Government in respect of their *Temporalities*, and were a Ministerial part of it. *In subsequenti Nativitate Domini Regnum Angliæ ad Curiam Regis Londoniæ pro more convenit, & magna solemnitas habita est & sublimis.* The *Regnum* here is to be understood of the Government of the Kingdom, not of all the *Inhabitants* of the Kingdom, or the Kingdom, as it is a place wherein the *Inhabitants* are Resident: but by *Regnum* is to be understood both *Temporal* and *Spiritual* Barons, great and small, the Kings *Justices*, or any others that exercised any share or Ministerial part of the Government, as perhaps all these did, one way or other, by coming to great Councils or Parliaments, &c. All this is evident from the words of the *Quadripartite History* of the Life of *Thomas Becket*. *Rex apud Clarendune, Regnum Convocat Universum: Quo cum venissent Præsules & Proceres exegit Rex instantius ut sibi promissa solverentur, &c.* This *Regnum Univerſum*, the whole Kingdom here mentioned, was only the *Præsules & Proceres*, that is, the whole Baronage, called together by the Kings Writ, or a great and full meeting of the *Spiritual* and *Temporal* Barons both great and small. And that this was the meaning of *Regnum Univerſum*, *Mat. Paris* puts it out of doubt. *Anno 1237. (the One and Twentieth of Henry the Third) Tenuit Rex Curiam suam ad Natale apud Wintoniam, misit autem Continuo per omnes fines Angliæ Scripta Regalia, præcipiens omnibus ad Regnum spectantibus, videlicet Archiepiscopis, Episcopis, Abbatibus, Prioribus installatis, Comitibus & Baronibus, ut omnes sine Omissione in Quadragesima Epiphaniæ Londoniis convenirent, venit igitur dies Sancti Hilarii Londoniæ infinita Nobilium multitudo,*

Eadmer, f. 105.
lin. 5. circa
A. D. 1109.
Temp. Hen. I.

Quadrig. lib.
I. c. 26.

F. 435. n. 10.

titudo, viz. Regni Totalis Univerſitas. In the year 1237. the King held his Court at *Chriſtmas* at *Wincheſter*, and forthwith ſent his *Writ*s through all parts of *England*, commanding all that belonged to the Government, to wit, the *Archbishops*, *Bishops*, *Abbats*, *Priors* installed, *Earls* and *Barons*, to meet without *Omiſſion* at *London* in the *Oſtaves* of *Epiphany*, to Treat about the Kings Buſineſs which concerned the whole Government. Therefore on *St. Hilaries* day came to *London* an infinite number of *Nobles*, that is to ſay, the whole *Univerſity* of the Government, or Kingdom. Here we ſee who the *All* were that belonged to the Government, only the *Archbishops*, *Bishops*, *Abbats*, *Priors*, *Earls* and *Barons*, and that they were the infinite *Multitude* of *Nobles*, and whole *Univerſity* of the Government or Kingdom.

Hence we know the true meaning of thoſe words in the laſt Chapter of *Magna Charta*; *Archiepiſcopi, Epiſcopi, Abbates, Priores, Comites, Barones, Milites, Liberi Tenentes & omnes de Regno noſtro dederunt nobis quinto-decimam partem omnium Mobilium ſuorum*, for granting the Liberties in both the Charters. The *omnes de Regno* here were the ſame with the *omnes ad Regnum ſpectantes* above, the *Regnum*, or Government, the *Communitas Regni*, the *Totalis Regni Univerſitas*, the *Inſinita Multitudo Mobilium*; and alſo gives us the meaning of thoſe words in * *cl. 19 Hen. 3. M. 6. Dorſ. Rex Vicecom. ſalutem. Scias quod Comites & Barones & omnes alii de toto Regno noſtro, &c. conceſſerunt, &c.* Which are

* Append.
Record 14.

further explained by a Record upon the ſame Roll, and about the ſame Buſineſs. * *cl. 19 Hen. 3. M. 6. Dorſ. Rex Vicecom. ſuſſex, &c. Sciatis quod Archiepiſcopi, Epiſcopi, Abbates, Priores, Comites, Barones & omnes alii de Regno noſtro Angl. qui de nobis Tenent in Capite, nobis conceſſerunt, &c.* Here the *omnes alii, de Regno noſtro*, were the *omnes alii qui de nobis Tenent in Capite*; which were the *Regnum*, or *Communitas Regni*, as hath been evidenced over and over. *Rex omnibus, &c. Cum venerabiles patres G. Eborum*

* Append.
Record 15.

Archiepiſcopus Angliæ primas, & alii Prælati, Magnates, Milites, Libere Tenentes, ac omnes alii de Regno noſtro nobis nuper in Articulo neceſſitatis, Serbitium fecerunt & Subſidium, &c. Pat. 48 Hen. 3. N. 5. Theſe *omnes alii de Regno* were the ſame with the other; and otherwiſe it could not be, for by *omnes de Regno*, or *omnes alii de Regno*, the *Inhabitants* in general could not be underſtood, for they never were ſummoned, the Hundreth part of them to meet in great Councils, 'twas impoſſible they ſhould all meet: and perhaps not above a fourth part paid to this 15th, if we conſider how many Servants, Villans, Bondmen, and ſuch people there were then in the Nation that paid nothing. *Rex Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Comitibus, Baronibus, Militibus & omnibus aliis de Comitatu Kancie, &c. Sciatis quod Prælati, Comites, Barones & Ceteri Magnates de Regno noſtro concorditer pro ſe & pro Tota Communitate Regni in pleno Parlamento noſtro nobis conceſſerunt Quadraginta ſolidos de ſingulis Feodis Militum in dicto Regno, &c.* This Writ could not be directed to all the Men in Kent,

but to all ſuch as paid *Scutage*; for not a fortieth part of them were *Tenents in Capite*, or *Military Service*; and therefore *omnes Alii* muſt always in Records be underſtood with a reſervation or reſtriction to the Matter and Buſineſs intended and deſigned in and by that Record. And thoſe words *omnes Alii* ſignifie no more than the words in many *Writs* or *Warrants*, and other Writings; All whom it may concern.

Homines de Regno are often to be taken in the same sense as we see *Omnes de Regno* many times are, especially if the words *Noſtri* or *ſui* be joyned with them. They do not generally ſignifie *all* the *Kings Subjects*, but frequently the *Tenents in Capite* only. So in other Nations, *Homines Appellari Capere, Vaſalli & Clientes qui ratione Beneficiorum & Feudorum Dominis ſuis, ſpeciali ad id facta profeſſione, quæ ex hoc Hominium vel Homagium dicta eſt, Fidem & Servitium, ſeu Militie vel placitorum aut quodvis aliud debebant: Quia quidem Notione vocem Homine Conſuetudines noſtræ Municipales paſſim uſurpant. Du Fresne in Verbo Homines.*

Sapientes, Wites, or Witen.

Which moſtly ſignifie *Noblemen*, or great *Lawyers*; *Wita* in *Somners Saxon Dictionary*, is firſt turned *Optimas*, a Nobleman, and then *Sapiens*, a Wiſeman. In the *Laws of King Ina* it is ordained, That if any Man fought, or ſtruck another in the Houſe of an Alderman, or any other *Illuſtrious Noble Wite, Great Man, or Wiſeman*, on other *Gerhungenes Witan*, he was puniſhed *sixty Shillings*. In the *Laws of Edward the Confefſor*, Aldermen were called *Seniores, non propter Senectutem cum quidam adoleſcentes eſſent, ſed propter Sapientiam*; Not for their Age, when as ſome of them were Young Men, but for their Knowledge and Wiſdom. Hence from *Sapientia* the Aldermen were called *Sapientes*, Knowing, or Wiſemen.

The General Council at *Ænham ab Æthelredo Rege Edictum*, was called by King *Ethelred, Accerſitiſque Episcopis, & Univerſis Anglo-rum Optimatibus*, having ſummoned the Biſhops and all the Chief Men, and the Title of the Laws is *Be Witena Gerædneſſan, Decreta Sapientum*, The Decrees of the Wiſemen. And many of the Chapters begin thus, 'And *Witena Gerædneſ* is, c. 1. 5. 6. 7. and the Decree of the *Wites* or Wiſemen is, &c. *Decernunt Sapientes, Nu hæbbe ic Funden mid them Witum the at Exceastre mid me Wæron to Widdum Wintre*. Now I found with thoſe *Wiſemen* which were with me at *Exceſter* at *Chriſtmas*, &c. In an exchange between King *Edgar* and the Monastery of *Ely* for *Digun*, and *Ceaſlea*, that is, *Ditton* and *Cheveley* in *Cambridgeſhire*, after all the Biſhops and Abbats had Witneſſed and Corroborated the exchange, *Eglaf* ſigns it thus, *Ego Eglaf Comes, ratum Duxi ſtabilire Sapientum Decretum*, Hiſtor. & Privileg. Eccleſ. Elienſ. penes Doct. Gal. p. 117. b. *Post Obi-tum Eadgari Regis dum eſſent Rex Edwardus, & fere omnes Sapientes ſui, apud Kyngſtune Rogavit Ægelwinus Alderman Episcopum Æthelwoldum, &c. Ibid. p. 63. a.* Theſe *Sapientes* were his *Aldermanni & Tani*, his Aldermen, Dukes, Earls and Thegns.

Ethelwoldus Episcopus emit Grantedene pro Ducentis Aureis ab Henrico de Wanetinge, coram Teſtimonio Edgari Regis & Alferi Alderman. & Egelwini, & Brythnoth, et Alfrici Cyld et Ringulfi, et Thurvethi, et aliorum Sapientum qui tunc aderant, Ibid. p. 62. b. All theſe ſix *Wiſemen*

Cap. 6. de pugna.

Sapientes.

Cap. 35. de Gereve. Aldermen or Noblemen.

Spel. Concil. f. 510. 513.

Leges Æthelſtani, Lamb. f. 53. n. 69.

A

B

C

D

E

F

men are Witnesses to the Charter of Priviledges granted by King Edgar to the Church of Ely, in the year of Christ 970, and of his Reign the 13th, and they sign thus, Alferc Dux, Egelwine Dux, Brihnoth Dux, Pringulph Minister, Churserth Minister, Alric Minister, Ibid. p. 83. b. 85. a. p. 85. b. 87. b.

A Bede, in his Ecclesiastical History, tells us, That Paulinus labouring with Euwin King of Northumberland, to receive the Christian Faith, he resolved first to consult *cum amicis, Principibus, et Consiliariis suis*, with his Friends, Princes and Counsellors, &c. which in the Saxon Version of Bede, done by King Alfred, are thus expressed; That he wold Mid his Freondum, ond mid his Ealdrmonnum, ond mid his Witum Spæce on Getheabt habban. Verbatim, That he would with his Friends, and with his Aldermen, or Princes, with his Wites or Counsellors speak and advice have. Here we see Principes turned by Aldermen, and the Kings Counsellors by Wites.

Lib. 2. c. 13.
f. 141.

Counsellors.

B Affe in the Life of King Alfred reports, That he being accustomed to Rehear Causes, which in his absence had been heard and adjudged in his Kingdom; admiring the Ignorance of his Earls, Prefects and Ministers (Thegns) commanded them either forthwith to lay down their Places of Judicature, or to apply themselves Sapienitiæ Studiis, to the study of Knowledge, or of the Law. Here we see again who had the Title of Sapientes, namely the Judges, that is, the Comitæ, Præpositi, et Ministri, or Thegns, for these last were the Seminary of Nobility, or Great Officers, Civil, Military, and Ecclesiastick amongst the Saxons. In a case so perspicuous I shall produce but one or two Examples: King Edgar having ejected the Clercs and restored Monks to the Monastery of Malmesbury, and by Charter made Alfric Abbat thereof, restored also to that Monastery a Parcel of Land, with Meadows and Wood belonging to it, which one Adelnoth a Contentious Person, had unjustly possessed himself of. But (*subtili disceptatione à Sapientibus suis auditâ*) his subtle Pleadings being heard by the Kings Judges (for so Sapientes must be rendred here) in the presence of the King, notwithstanding his lying Evasions, he was convinced, and the Land returned to the Monastery.

Fol. 21. n. 20.
30.

Sapientes were
Judges, Earls,
&c.

Ingulph. Hist.
Croyl. fol. 503
b. 1. 7. & n. 10.

They were
Lawyers.

E So in the Auctuary to the 35 Law of Edward the Confessor, 'tis said, Erant et alie potestates, et dignitates, per provincias et patrias universas et per singulos Comitatus totius Regni constitutæ, qui Heretoches apud Anglos Vocabantur, scilicet Barones, Nobiles, et insignes Sapientes, &c. And there were other Offices and Dignities established through all the Provinces, and every County of the whole Kingdom, which the English called Heret-ges, (in King Ina's Laws Here-Thegns) that is to say, Noble Barons, and Illustrious Wites, or Wisemen, called in Latini Ductores Exercitus, Generals of, or Great Officers in the Army. Greg. of Tours, Radovicus, and many of the Foreign Antient Historians, mention Sapientes as Lawyers, Counsellors, Judges; and amongst the Modern Foreign Lawyers, Hottoman and Calvin, say expressly, they were such. But perhaps not of the Inferiour Rank, no more than the Saxon Sapientes were, of which their Witenage-mores only consisted. And we have at this day the Judges, and Kings Council, and other great Lawyers, that sit in the Lords House, and are assistant to the Parliament, when there is occasion.

Lamb. fol. 147.
Tit. de Heretochiis.

In verbis

Per

Grand. Cu-
stum. Norm.
c. 9.

Per Laudamentum Sapientum, i. e. Consilio Jurisperitorum Cujac. de Feud. Lib. 1. Tit. 17.

Les Juges sont Sages persons & autentique, qui en Court font Jugement de ce qu'ils Oyent sicome les Archevesques, Evesques, Chainons des Eglises, Cathedraux, &c. & les Abbees, les Prieurs Conventual, &c. The Judges are Sage or Wis men, and Authentick, which give Judgment in Court according to what they hear, as Archbishops, Bishops, Canons of Cathedral Churches, Abbats, and Priors Conventual, &c. Of the Judges of the three great Courts, the *Assize*, the *Exchequer*, and Court before the Duke, where all great Matters were determined, 'tis said, *Et est pour ce tel Sieges sont plus Grandement garnir de Saiges Homes, que autres Sieges purquoi les querelles y povent Estre plus discreetment Determinees.* What more frequent amongst us than the Sages or Wisemen of the Law? Accordingly the old Register of Writs, Printed by *Rastal* 1531. f. 9. a. *Vide Opinionem Sapientum & Jurisperitorum quod nemo potest facere Attornatum, &c.*

A

B

Tenentes in Capite de Rege.

BESIDES the *Tenents in Capite* by Military Service, and such as were bound to Military Service in and by their Tenure in Serjantie, there were small *Tenents in Capite* by small Serjantie.

C

Inter Com-
munia Term.
Sancti Mich.
47 Hen. 3. in
Scaccario.

Robertus le Mercer de Northampton reddit ad Scaccarium quatuor fena Equorum cum Clavis, pro quadam Domu quam tenet de Rege in Capite in Northampton.

Ibidem.

Will. Novel reddit ad Scaccarium unum par Calcarium deaurat. pro quadam terra quam de Rege Tenet in Capite de Denton & Hockling in Comitatu Kancie.

Ibidem.

Magister Ricardus Cocus reddit ad Scaccarium unum par Chirothecarum pro quadam Domo quam de Rege Tenet in Capite in Judaismo London.

D

These were of small account, the *Tenents in Military Service* were only the considerable Men.

Vasallus.

E

Hotrom. de
Verb. Feud.
Col. 962. D.
Ibid. col. 914.
D.

VASALLUS diminuto Vocabulo, inferioris Ordinis Client, was a small Military Tenent, or Feudatary. Clientes in his Libris (meaning the Feudal Books) passim Milites et Feudatarii appellantur.

Ibid. de Feud.
D. put. Col.
810. F.

Vasallorum conditio tota non modo Libera atque ingenua, verum etiam plane Militaris erat, a quo vite genere servos omnes sub Pœna Capitis urceri nemo Mediocriter quidem eruditus ignorat.

Ibid. Col. 811.
B.

Propria, perpetua, & ordinaria Vasallorum conditio hæc esset, ut simulque Bellicum insonisset cum Armis decoris et Equis Militaribus præsto suis Patronis essent.

F

Ibid. in Feud.
Commentar.
Col 771. B.

Feudum non ipso Jure ob Vasalli crimen patrono committitur, sed Patrium sententia causa cognita ei abjudicatur.

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1573/2

An Historical
TREATISE
OF
CITIES,
AND
Burghs or Boroughs.

S H E W I N G

Their Original, and Whence, and from Whom
they Received their *Liberties, Privileges, and*
Immunities; What they were, and what Made
and Constituted a *Free Burgh, & Free Burgesſes.*

— AS ALSO SHEWING

When they firſt ſent their Representatives to *PARLIAMENT.*

WITH A

Concurrent Diſcourſe
Of moſt Matters, and Things Incident, or Re-
lating thereto.

By *ROB. BRADY*, Doctor in Phyſick.

The Second Edition.

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THE
PREFACE
TO THE
READER.



HEN for my own private Satisfaction I first began to inquire into the Original Constitution of Burghs, in this and Foreign Nations, what they were, and whence their great Liberties, and Privileges. In our Ordinary Writers, whosoever they were, that discoursed of them as they came in their way, I found little else but Prescription, and pretended Usage and Possession time out of Mind, vouched for the great Independent Rights they have claimed, and do challenge.

And truly by the Notion these Writers have, and their Readers cannot but have, of them, according to their Informations, they seem to have been Æternal, or at least Coæval with the Creation, and so many ready Wrought, and Framed, small Commonwealths, lifted out of the Chaos, and fixed upon the surface of the Earth, with their VValls, Gates, Town or Gild-Halls, Courts, Liberties, Customs, Privileges, Freedoms, Jurisdictions, Magistrates and Officers, in their Formalities, and all Extravagant, Uncontroulable, and Absolute Powers, and Absurd Rights, they have of late Years pretended to.

But, whoever will seriously peruse this Treatise, shall find the Dates of their Originals, and Gradual Augmentations, and must confess they have nothing of the Greatness and Authority they boast of, but from the Bounty of our Ancient Kings, and their Successors, notwithstanding any other Confirmations, or acquired Right, they may allege, and acknowledge that

* See Appen
dix N. i. b.
fol. 6. B. C.
D. E. F. and
fol. 7. A. B. C.
D. E.

* *Prescription, and pretended Immemorial Customs or Usages avail not, when there are Charters or other Records which shew, that in this case (of what weight soever they may be in other,) they are mere Conjectures, Words of Course, and the Popular Assertions of such Men, as either knew not how, or would, or for their more gainful Employments could, not look into those great Monuments of Antiquity, and discoverers of Truth.*

And therefore I have opposed matter of Fact, through the whole discourse, to these fond Imaginations, and easie Notions, and for the clearer Demonstration of what I intended to Evince, have produced all the Instances of Cities, Burghs, and Towns in both the Books called Domesday-Books, from whence I could receive any Satisfaction of the Condition and Import of Burghs and Burgeses in the Saxon Times, without any particular Deductions from these Instances, or Remarks upon them.

'Tis easie for any Man that will but note them to observe, that according to the Modern way of Speaking, they then made but a small Figure in the Nation; to be sure the Burghs were not distinct Commonwealhs, or Governments, nor the Burgeses Statesmen, or People of much Interest, whatsoever some Popular and Factionous Writers, who Scribe by Rote, and according to their own Fancies, have delivered to the contrary.

Many other places not Named in this Treatise, are either called Burghs in the Conquerors Survey, or there are Burgeses mentioned in the Description of them; several of which are not now esteemed Burghs, nor is there any Light or Information to be had from them, what Burghs or Burgeses then were, as Torchsey, Louth, and Stanford in Lincolnshire, Stainings in Suffex, Sceptesbury or Shaftsbury in Dorsetshire, Domnitone or Dountone, Theodulveside, Saresberie, Wilton, Malmesbury, Chrichlade, and Caun in Wilts. Lideford and Totnesse in Devon, Colcester and Maldon in Essex, Winchelcumb in Gloucestershire, Hereford, Snottingham, or Nottingham, these have the bare Names only of Burghs, or some Burgeses are said to have lived in them, without any thing relating to their Quality, or Condition.

London and Winchester are not described in this Survey, in Worcester, Derby, and Lincoln, the Name of Burgeses not mentioned. Bristol not to be found in the Survey, it was made a City and County 47 Ed. 3. though a Burgh long before, Bridgewater not to be found there, nor Minehead, Lin or

Len

Len in Norffolk only mentioned, but not as a Burgh, or Town of note.

'Tis only said of Gloucester. Tempore Regis Edwardi [1] Reddebat Civitas de Glowceſtre XXVI Lib. numeratas & XII Sextaria Mellis ad menſuram ejuſdem Burgi, in the time of King Edward, the City of Glouceſter paid Thirty Six Pounds by Tale, and Twelve Sextaries or Gallons of Honey, according to the meaſure of the ſame Burgh, nothing further of this Burgh or any Burgeſſes therein.

[1] Domeſd. f. 126. Col. 1.

And of Leiſceſter thus. Civitas de [2] Ledeceſter Tempore Regis Edwardi reddebat per annum Regi XXX Lib. ad numerum & XV Sextaria Mellis. Quando Rex ibat in Exercitu per Terram de ipſo Burgo XII Burgeſſes ibant cum eo. Si vero per Mare in hoſtem ibat, mittebant ei quatuor Equos, de eodem Burgo uſque Londoniam ad Comportanda Arma, & alia quæ opus Eſſent. That is, The City of Leiſceſter in the time of King Edward paid yearly to the King Thirty Pounds by Tale, and Fifteen Sextaries of Honey, when the King marched with his Army by Land, there went with him Twelve Burgeſſes of this Burgh, when he went by Sea againſt an Enemy, he had Four Horſes ſent from the ſame Burgh to London to carry Arms, or other Neceſſaries; nothing more of this Burgh, or its Burgeſſes in the Survey.

[2] Ibid: f. 236. a. Col. 1.

We may note from both theſe laſt Towns, there was not then much difference between a City and Burgh, both Appellations being given to one and the ſame Town; Leiſceſter never had * Biſhops, and at this time Glouceſter had none, the great diſtinction grew, after Cities were made Counties by Charter.

* Sir Edward Coke, ſays, all Biſhops Sees are Cities, &c.

Nor was the Condition of London (unleſs Men would think otherwiſe from the largeneſs of the place only,) much better, or the Liberties, and Privileges of it, more, or much greater than thoſe of other Cities, and great Burghs. Notwithſtanding the Prodigious Flatteries, and Elevating Harangues, it hath been puff'd up with by the Author of Londinum * Triumphans, Printed and Dedicated to the Men in Authority, in the Year 1682. And by the Writings of many others, Ancient and Modern, who either on purpoſe, or occaſionally, wrote what they found concerning this City, without Examination, and ſo were Deluded by ſuch as went before them, or by their own Imaginations, or Apprehenſions. Judging of its former State and Condition, (or at leaſt what in their Opinion it ought to be,) according to the preſent Splendor, and Appearance of it.

* A Book compoſed of Fables, and the Perverted Hiſtory of ſome good Authors.

And

*And to Demonstrate what I have here said, I caused the Charters made to the City of London, by Henry the First, Henry the Second, Richard the First, and King John, to be Printed in the Appendix, N. 17. and 18. And likewise the Charters of Winchester, Lincoln, York and Norwich Granted in the same Times, by comparing of which one with another, there will be found but little difference in their Compositions, or in the Immunities, Liberties, and Privileges Granted by them. Except that, the Citisens of London by the Kings Grant, had Power, and Liberty to Distrein the Goods of any other Citisens, or Burgeses, or of any * Inhabitants of the Counties, where such Foreign Citisens or Burgeses lived, that were indebted to them, if found in London, as is to be seen in the Charter of King Henry the First, N. 17. f. 27. A. and the Confirmation of it in General Words, in all the Subsequent Charters, before noted, whereas the Citisens and Burgeses of other Cities, and Burghs, by their Charters, had not Power to Distrein the Goods of a Country-Man, or Inhabitant of the County for their Debts, if they were not * Debtors to them, or * Sureties for others.*

* See the Charter of Dunwich N. 3. b. f. 11. A.

* See Dunwich Charter as above. The like in many other Ancient Charters of Burghs.

The Cities of Norwich, and Lincoln, had all the Liberties and Free-Customs, of the City and Citisens of London, in such manner as when they did best, and most freely enjoy them. See Appendix N. 20. and 22. Yet never pretended to, then, such unthought-of Liberties.

And after these times, whoever will take the pains to read all the Charters of London, (Translated into English by S. G. Gent. (though not so exactly as he pretends,) and Dedicated to Sir Robert Clayton, when Lord Mayor,) which were Granted by King Henry the First, and our Successive Kings, will find, that all the Great Privileges and Liberties, that City lately enjoyed or pretended to, were the Grants of the Kings Progenitors; and also find them Successively, and particularly Granted, as the Citisens Petitioned, Bargained, or Compounded for them. And therefore no Reason for them to plead Immemorial Custom, or Prescription for all, or most things, that might have been found Granted by Charter, if those imployed had had Time, or Will, to have Industriously perused them.



A
B
C
D
E
F

A
TREATISE
OF
English Burghs,
OR
BOUROUGHS.



SAAC CAUSABON in his Comment upon Strabo, and others will have the Greek Πύργος, and the Latin *Burgus* to be the same, and the later to be derived from the former, and so to signify a Tower, a Castle, or City. He adds, That the Thracians and Macedonians pronounced the word Πύργος in stead of Πύργος.

Cluverius in his [1] *Germania Antiqua*, contradicts Causabon, and asserts *Burg* to be a pure German word, and that it signifies, The Placing or Situation of many Houses together, which was called a *Vicus* or Street, or Rows of Houses close to one another. Not that every *Vicus*, Street, or Congregation of Houses was a *Burg*, but such only as were the Head or Chief of some Country

[1] F. 89, 90.

Burg a German word.

Town, Tor,
Tur, Town,
Tune, what
they were.

[2] Ibidem.

Burgs why so
called.

Bergh or Berg
what it signi-
fies.

[3] Lib. 2. Tit.
45. c. 27.

[4] Lib. 3.
Tit. 57.

Burg signifies
a City, Bo-
rough, or
Town Corpo-
rate.

Country or Nation; as *Batenburg* was the chief Town of the *Bitavi*, &c. And further notes, That the word in its most ancient signification denotes an *Inclosure* or *Peage*, which was otherwise called *Tuun* or *Tupn*, in the same sense as we anciently used *Ton*, or *Tun*, and now do *Town*, and the Scots *Tune*: Which by the French are rendred *Bourg* or *Burgade*. To this purpose [2] *Luitprandus* (who lived about the year 940.) speaking of the *Burgundians*, says, *Ipsi Domorum Congregationem quæ Muro non clauditur Burgum vocant*, They called a *Congregation* of Houses which were not inclosed with a *Wall*, a *Burg*. That is, it was a great Town, not Walled about.

Du Fresn in his *Glossary* agrees with *Cluverius*, and says, The *Latins*, *French* and *Germans* at first called *Numbers* of Houses joyned together *Burgs*, from whence their great Towns had the same Name, and that afterwards many *Towers* and *Castles* were built for the Security of those Towns against the Attempts of Enemies, which were also called *Burgs*, which is proved by the Termination of many *German* Towns in *Burg*; and therefore asserts the word to be rather *French*, or *German*, than *Greek*.

Wendelin in his *Salic Glossary* of *Atuatic* Words informs us, That *Bergh* or *Berg* sometimes signified *Receptaculum*, a place of Receipt, as in *Mallo-bergum*, a word derived from *Mallus* or *Mallum*, a Convention for the Determining of *Law-Cases*, and *Berg* the House or Place where it was kept. So in the *Laws* of the [3] *Lombards*, *Volumus utique, ut Domus à Comite, in loco ubi Mallum tenere debeat, constitutur, ut propter Calorem Solis, & pluviam publica utilitas non remaneat*. We will, That a House be built by the *Earl* where the *Mall* or *Affises* ought to be holden, lest the *Public Benefit* be hindred or put off, by the heat of the *Sun*, or *Ruin*. Also in the [4] *Capitulars*, *Ut in loco ubi Mallos publicos habere solent, Tectum tale Constitutur, Quod in hiberno & Estate Observatum esse possit*. We will, That in the place where *Public Malls* or *Law-Conventions* ought to be kept, there may be such a *Roof* or *Covering* provided, as they may be holden in *Winter* and *Summer*; in this sense *Hierberg* is now an *Inn*, or House of Common Receipt: which was at first a place of Receipt for *Souldiers*, (from *Here* an *Army*, and *Berg* as before) and set upon the *Public Roman* ways. Whence the same Author explaining the word *Berg*, saith, That in the Composition of *Mall-berg*, &c. *Non significat Montem aut Tumulum, sed Receptaculum & Tutamen adversus Tempestatum injurias, &c.* It doth not signifie an *Hill*, or *Hillock*, *Barrow*, *Tomb* or *Grave*, but a place of Receipt and Security against the Injury of *Weather*. Unde *Burgen* & *Bergen* est *Tegere ac Tueri*, &c. from whence *Burgen* and *Bergen* signifie to Cover and Defend: And from thence *Halsberg* in Dutch, is an *Iron Gorget* or *Collar* to Defend the Neck. *Heutberg*, and *Haut* or *Hauberg* an *Iron Helmet* to Defend the Head, and *Bainberg* *Iron Boots* to Defend the Legs.

Somner in his *Saxon Dictionary* tells us, That *Burg* signifies a *City*, *Fort*, *Fortress*, *Tower*, *Castle*, a *Borough*, *Free-Borough* or *Town Corporate*, and Cites *Otfrid* for its Derivation from the *Saxon* *Beorgan* in *Tutum recipere, servare*, to preserve and keep in safety.

The Author of the [5] Court-Law of *Norwey* gives the same sense of the word *Burch*, *Burgh*, *Börgh*. *Burgum*, *Munimentum*, *locus Editus*, & *Munitus*, *ad salutem hominum*. A *Berghen in Tutum recipere, servare*.

[5] P. 708. 709.

A And whether *Burgh* was taken for a place of *Strength*, or a place of *Trade*, as it was *Guarded* with the *Liberties* and *Priviledges* granted by Princes, then (and perhaps now) altogether necessary to the advantage of *Buying*, *Selling*, and *Trading*, by which *Tradesmen* quietly and without disturbance enjoy the Benefit of it, *Burghs* might truly be called *Places of Safety*, *Protection* and *Privilege*. But enough of the *Notation* of the word. I shall proceed to shew what *Cities* and *Burghs* were, in reference to *Trade* and other Matters, and of what *Value* and *Reputation* the *Inhabitants* or *Burgesses* were in the *Saxon* Times, and afterwards; when they became *Parlement-Burghs*.

Norfulc [6] Rex.

Est Hund. de Flec.

[6] Little
Domesday,
fol. 118.

C *Gernewa tenuit Rex Edwardus * semper LXX Burgenses*, King *Edward* held *Tarmouth*, there were always 70 *Burgesses*. And there is in the *Survey* it self nothing further said of these *Burgesses*, what they or their *Condition* was. But in a *Controversie* [7] that happened between the *Burgesses* of *Tarmouth* and the *Tenents* of the *Manner* of *Luthinglond* in *Gorlston* and little *Tarmouth*, in the 12th of *Henry* the Third, about *Lading* and *Unlading* of Goods, it appears they were *Merchants* and *Traders* at Sea, and upon the Water. That the *Kings* of *England* kept this *Burg* in their own Hands, and received by their Officers the *Profits* of the *Port*, until the time of King *John*, who in the 9th year of his Reign [8] Granted the *Burg* in *Fee-Farm* to the *Burgesses* for ever, at the Rent of Fifty Five Pounds by the Year to be paid by the *Provost* or *Bayliff* of *Tarmouth*, and Granted they should yearly chuse a *Bayliff* amongst themselves, fit both to serve him, and themselves.

*Tarmouth.** i. e. as well
in the time of
King *Edward*,
as at the time
of making the
Survey.[7] Append,
N. 1.[8] Append.
N. 2.

E [8] Norfulc.

Hundred de Tetford Terræ Regis in Tetford, &c. After an Estimate made of the Lands and Mills belonging to the King and Earl or Sheriff, it follows.

[8] Domesday
ut supra.

F *In Burgo autem erant DCCCCXLIII Burgenses Tempore Regis Edwardi, de his Rex omnem consuetudinem habet. De istis hominibus erant XXXVI ita Dominici Regis Edwardi, ut non possent esse homines Cujuslibet, sine licentia Regis; Alii omnes poterant esse homines Cujuslibet, sed semper tamen Consuetudo Regis remanebat præter Perigete. Modo sunt DCCXX Burgenses & CCXXIII Mansuræ vacuæ. De istis Burgensibus XXI habent VI Carucas & LX acr. quas tenent de Rege, &c.* That is, In the *Burg* there were 944 *Burgesses* in the Time of King *Edward*, and the King had all the *Custom* they paid, or had of them

Thetford.

all sorts of Custom, of those Men there were 36 so much under the Power of King Edward, or so much his *Vassals*, as they could not be the *Vassals* of, or have any other Man to be their *Patron*, without his *Licence*, all the other might put themselves under the *Patronage* or *Protection* of any other Lord. But so as their Custom always remained to the King, except only the *Hereot*. Now there are 720 *Burgesses*, and 224 Houses or Dwellings void. Of these *Burgesses* 21 have six Plough-Lands and 60 Acres, which they held of the King, &c.

[9] Ibid. f. 304.
& f. 311. b.

Terræ [9] Roberti Malet in Sudfulc.

Dunwich.

Dunewic [9] Tenuit Edricus de Lesefelde T. R. E. pro uno Manerio, & modo Robertus Malet Tunc II Caruc. Terræ, modo I, Mare abstulit aliam, & semper I Car. in Dominio Tunc XII Bordar. Modo II & XXIII Franci homines de XL acr. Terræ, & omnem consuetudinem reddunt huic Manerio, & Tunc C & XX Burgenses, & modo CCXXXVI.

Edric de Lesefelde held Dunewic in the time of King Edward for one Maner, and now Robert Malet holds it. Then there were two Plough-Lands, now one, the Sea hath washed away the other, and there was alway one Plough-Land in Demeasn, then twelve Bordars, now two, and 24 French, or Free-Men, each 40 Acres, who pay all Custom to this Maner, and then 120 Burgesses, and now 236, &c.

* Append. N. 3.

For the *Quality* of this *Burg* and the *Condition* of the *Burgesses*, see the *Grant* and *Confirmation* of their *Liberties*; 1 *Johannis* in the * *Appendix*, N. 3.

[1] Domesday
ut supra,
f. 118. a.

[1] *Norfulc.*

Norwich.

*Franci de Norwic. In Novo Burgo XXXVI Burgenses & VI Anglici, & ex Annua consuetudine reddebat unusquisque 5 d. præter Forisfacturas, de hoc totò habebat Rex Duas partes, & Comes Tertiam. Modo XLI Burgenses Franci in Dominio Regis & Comitis, & Rogerus Bigot habet L, & Radulfus de Bellofago XIII, & Hermerus VIII, & Robertus Arbalistarius V. & Fulcherus homo Abbatis I & Isac. I & Rad. Viso Lupi I & in Pristrino Comitis III. And then it follows, Tota Terra Burgensium erat in Dominio Comitis, & * Rad. Concessit Regi in Commune ad faciendum Burgum inter se & Regem ut Testatur Vicecomes, & omnes Terra ista tam Militum, quam Burgensium reddunt Regi suam Consuetudinem.*

* Ralph de
Guader that
Rebelled
against the
Conqueror,
&c.

There were 36 *French Burgesses* in *Norwich*, in the *New Burg*, and six *English*, and every one paid an *Annual Custom* of 5 *d.* besides their *Mults* or *Forfeitures*. The King had two parts of the whole, and the Earl the third part. Now there are 41 *French Burgesses* *Vassals* to the King, and Earl; and Roger Bigot hath 50, and Ralph de Bellefago hath 14, and Hermer 8, and Robert a Manager of Battering Engines 5, Fulcher *Vassal* to the Abbat 1, and Isaac 1, and Ralph *Wolfs-face* 1, and three in the *Earls Bake*, or *Grinding-House*. All the Land of the *Burgesses* (in the *New Burg*) was the *Demeasn* of Earl Ralph, who Granted it to the King in *Commune* with himself,

self, to* make a *Burg*, to be (that is the Profits of it) between him and the King; and all those Lands which were the *Knights* or *Burgesses* paid their Rent to the King.

Norfulc.

In the old City, or Burg.

In [2] *Norwico de MCCXXXVIII Burgensibus Rex & Comes habent Socam, Sacam, & consuetudinem, de L Stigandus habuit Socam, Sacam & Commendationem, de XXII Heroldus habuit Socam, Sacam & Commendationem, & unus eorum ita Dominicus esset ut non potuit decedere vel homagium facere sine ejus Licentia.*

* This was the Castle, or the Land about the Castle, which was within its outmost Ditch, or within its more immediate Jurisdiction.

[2] Domest. ut supra; f. 116.

In *Norwich* the King, and Earl have the Jurisdiction and Custom of 1238 *Burgesses*, *Stigand* had the Jurisdiction and Protection, or Money for the Protection of 50, and *Herold* of 22; whereof one was so much his *Vassal*, as he could not depart or do Homage to any other, without his Licence.

[3] Devenescire.

In *Civitate Exonia* habet Rex CCC Domus XV. minus redditus Consuetudinem, in hac *Civitate* sunt vastata XLVIII Domus postquam Rex venit in *Angliam*. *Burgenses Exoniae urbis* habent Extra *Civitatem Terram* XII Carucat. Quae nullam Consuetudinem reddunt nisi ad ipsam *Civitatem*.

[3] Great Domest. Book f. 100. a. Col. 1.

Excester.

In the City of *Excester* the King hath 315 Houses more or less paying Rent in this City, 48 lying wast, since the King came into *England*. The *Burgesses* of the City of *Excester* have 12 Plough-Lands without the City which pay no Custom, or Rent, unless to the City it self.

This is all that is to be found in the Description of *Excestre*, concerning the *Inhabitants* or *Burgesses* of that place.

Terra [4] Regis.

Rex habet Burgum *Barne staple*, Rex *Edwardus* habuit in Dominio ibi sunt intra Burgum XL *Burgenses* & IX sunt Extra Burgum, inter omnes reddunt Regi XL Sol. ad pensum, * *Episcopo Constantiensi* XX Sol. ad numerum. This is all of this Burg, and its *Burgesses*.

Barne staple.

* He was probably their Protector, or Patron.

The King hath the Burg of *Barne staple*, King *Edward* had it in Demeasfn, there are within the Burg 40 *Burgesses* and nine without, amongst them all they pay the King 40 s. by weight, and the Bishop of *Constance* 20 s. by Tale.

Rex habet [5] Burgum *Lideford*, Rex *Edwardus* Tenuit in Dominio, ibi sunt XXVIII *Burgenses* intra Burgum & XL. Extra, inter omnes reddunt Regi LX Sol. ad pensum, & habent II Caruc. Terra Extra Burgum.

Lideford.

[5] Ibid.

The

The King hath the *Burg* of *Lideford*, King *Edward* held it in *Demeasfn*, there are within the *Burg* 28 *Burgesfes*, and 41 without, amongst them all, they pay the *King* 60 s. by *Weight*, and they have two *Plough-Lands* without the *Burg*, this is all of this *Burg*, and its *Burgesfes*.

[6] *Domefd.*
ut supra, f. 56.
a Col. 2.

Waling-
ford.

* From the
Saxon *Haegh*
a House, which
was common-
ly Ditched, or
Hedged about,
whence our
word *Haye*, or
Hey.

[7] *Append.*
N. 4.

[8] *Little*
Domefd. f. 290.
a.

Ipswich.

[6] *Berroche Scire.*

*In Burgo de Walingford habuit Rex Edwardus VIII Virgatas Terræ, & in his erant CCLXXVI * Haga reddentes XI Lib. de Gablo, &c.* In the *Burg* of *Walingford* King *Edward* had eight *Virgates* of Land, upon which were 275 *Hages* or *Houfes*, paying eleven Pound Rent. The rest of the *Description* of this *Burg* is a long and rude *Catalogue* of all the *Hages* or *Houfes* belonging to this Town, and their Owners being either in *Barkshire* or *Oxfordshire* sides. With their *Rents* or *Customes*, many whereof belonged to *Forreign Maners*, not one word of any *Burgesfes* in the *Survey*. But by the *Charter* of King [7] *Henry* the Second, there were many and large *Liberties* and *Priviledges* granted them by the Name of *Burgesfes* of *Walingford*.

[8] *Sudfolc.*

De Dimid. Hund. de Gepefswit.

In Burgo erant Tempore Regis Edwardi DXXXVIII Burgenfes reddentes consuetudinem Regi, & habebant XL acr. Terræ. Modo vero sunt CX Burgenfes, qui consuetudinem reddunt, & C pauperes Burgenfes, qui non possunt reddere ad Geltum Regis nisi unum Denarium de suis Capitibus & CCCXXVIII. Vastata sunt, &c. In the *Burg* of *Gipfwiç*, or *Ipswich*, there were in the time of King *Edward* 538 *Burgesfes* which paid *Custom* to the *King*, and had 40 *Acres* of Land, now there are only 110 *Burgesfes* which pay *Custom*, and 100 poor *Burgesfes*, which can only pay one Penny a Head, and 328 *Mansions* lye waste; nothing more of this Town as a *Burg*, or of its *Burgesfes*.

Sudfulc.

Terra [9] Roberti Malet. Hund. de Hertefmera.

Ejam Tenuit Edricus XII Car. Terræ T. R. E. Modo Tenet R. in Dominio, &c. Et modo [1] mercatum, & [1] Parcus, & in Mercato Manent XXV Burgenfes. Huic Manerio pertinent XLVIII socmani CXXI acr. Terræ. Ex his socmannis sunt XXXVII in Dominio, &c.

The Land of *Robert Malet*, in the Hundred of *Hartefmer*.

Edric held *Eye*, there were 12 *Plough-Lands* in the time of King *Edward*, now *Robert* holds it in *Demeasfn*, &c. And now there is a *Market*, and a *Pound* for Cattle, or rather a *Park* for Deer. And to the *Market* belong 25 *Burgesfes*. To this *Mawer* there belonged 48 *Socmen*, who had 121 *Acres* of Land, of these *Socmen* there were

[9] *Domefd.*
ut supra, f.
319. b.
Eye.

37 in *Demeafn*, or the Lords Vassals. This is all concerning the Burgeses of this Town.

[1] Bochingham Scire.

A Bochingham [1] cum Bortone pro una Hida se defendebat T. R. E. & modo similiter facit. Terra est VIII Caruc. in Dominio sunt II & Villani habent III Car. & Dimid. & adhuc Due & Dimid. p'ssunt fieri. Ibi sunt XXVII Burgenses & XI Bordar. & II Servi, Ibi. I. Molin. de XIII Sol. Pratum VIII Car. pastura ad Pecuniam Ville. In totis valentiis T. R. E. reddebat X Lib. ad Numerum, Modo reddit XVI Lib. de albo argento.

[1] Great Domefd. Books, f. 143. Col. 1. Bucking-ham.

B Ecclesiam hujus Burgi Tenet Remigius Episcopus & Terram IIII Caruc. Quæ ad eam pertinet ibi sunt IIII Carucæ & III Villani & III Bordar. & X Cotar. Et I Molin. X Solidor. Pratum II Car. Nemus ad sepes, valet & valuit VI Lib. T. R. E. VII Lib. hanc Ecclesiam Tenuit Willielmus Episcopus de Rege E.

In hoc Burgo Episcopus Constantiensis habet III Burgenses quos tenuit Wluward filius Eddeve hi reddunt VI Sol. & VI Denar. per annum & * Regi reddunt XI Denar.

* Q. Whether this not Gel-tum Regis, which is frequently said to be paid by Burgeses in General.

C Hugo Comes habet I Burgensem qui fuit homo Burcardi de Senelay hic reddit XXVI Denar. per annum, & Regi V Denar.

Robertus de Olgi habet I Burgensem qui fuit homo Azor f. Toti, hic reddit XVI Denar. per annum, & Regi V Denar.

D Rogerius de Juri habet IIII Burgenses qui fuerunt homines ejusdem Azor hi reddunt VII Sol. & VI Denar. & Regi XIII Denar.

Hugo de Bolebec habet IIII Burgenses qui fuerunt homines Alrici. Hi reddunt XXVIII Denar. & Regi XII Denar.

Manno Brito habet IIII Burgenses qui fuerunt homines Eddeve femine Syred hi reddunt XXIX Denar. Regi nil Debent.

E Hascojus Mufart habet I Burgensem qui fuit homo Azor. f. Mufart. Toti, hic reddit XVI Denar. & Regi II Denar.

Ernulfus de Hesding habet I Burgensem qui fuit Wilaf hic reddit per annum II Sol. & Regi III Denar.

F Willielmus de Castellon de Feudo Episcopi Baiocensis habet II Burgenses, qui fuerunt homines Lervini Comititis hi reddunt XVI Denar. & Regi modo Nichil. Sed T. R. E. reddebat III Denar.

De Feudo Alberici Comititis I Burgens reddit Regi II Denar.

Leuumus de Neuucham habet V Burgenses & T. R. E. habuit, Hi reddunt ei IIII Sol. per annum & Regi XII Denar.

Bochingham with *Borton* was Taxed for one *Hide* in the Time of King *Edward*, and now likewise, the Arable is eight *Plough-Lands*. There are two in *Demeasn*, and the *Villans* have three *Plough-Lands* and half, and yet there may be two more and half. There are 27 *Burgeses*, and eleven *Bordars*, and two *Servants*, there is one *Mill* of 14 s. Rent, *Meadow* sufficient for the eight *Plough-Lands*. *Pasture* for the *Cattle* of the Town, for all Dues it paid in the Time of King *Edward* Ten Pounds by Tale, now it pays Sixteen Pounds of White Money. A

* A Norman and Bishop of Lincoln.

Bishop * *Remigius* holds the Church of this Burg, and four *Plough-Lands* which belong to it. There are four *Ploughs*, and three *Villans*, and three *Bordars*, and ten *Cotars* and one *Mill* of 10 s. Rent. *Meadow* sufficient for two *Ploughs*, and *Wood* sufficient for *Hedges*, it is and was worth Six Pounds by the Year, in the Time of King *Edward* it was worth Seven Pounds, Bishop *Wluni* held this Church of King *Edward*. B

* In Normandy. The Burgeses of *Buckingham* paid a yearly Rent to their Patrons, or Protectois.

In this Burg the Bishop of * *Constance* hath three *Burgeses*, which *Wlward* the Son of *Eddeve* held; these pay Six Shillings and Six Pence to him by the Year, and to the King Eleven Pence.

Earl *Hugh* hath one *Burges* who was the *Comendatus*, or under Protection of *Burcard* of *Senelay*, he paid Twenty Six Pence by the Year, and to the King Five Pence. C

Robert D'oyly hath one *Burges* who was the *Man*, or under the Protection of *Azor* the Son of *Tot*, he paid Sixteen Pence, and to the King Five Pence.

Roger de Juri hath four *Burgeses* which were under the Patronage of the same *Azor*, these paid Seven Shillings and Six Pence, and to the King Thirteen Pence. D

Hugh de Bolebec hath four *Burgeses* who were the *Men*, or under the Patronage of *Alric*, these paid Twenty eight Pence, and to the King Twelve Pence.

Manno a Britain hath four *Burgeses*, which were the *Men*, or under the Protection of *Eddewe* the Wife of *Syred*, these pay Twenty nine Pence, they owe nothing to the King. E

Hascoy Musant hath one *Burges* who was under the Protection of *Azor* Son of *Tot*. He paid Sixteen Pence, and to the King Two Pence.

Ernulf of *Hesding* hath one *Burges* who was *Wilaf's*, he pays Two Shillings, and to the King Three Pence. F

* In Normandy.

William de Castellon Feudal Tenent to the Bishop of * *Bajeux* hath two *Burgeses*, who were under the Protection, or the *Men* of Earl *Leunin*, these paid Sixteen Pence, and nothing now to the King, but in the Time of King *Edward* they paid Three Pence.

One *Burges* was of the Fee of Earl *Alberic*, and paid to the King Two Pence.

Leuuin of *Neuueham* hath Five *Burges*es, and had them in the Time of King *Edward*. These pay to him 4 s. by the year, and to the King 12 Pence.

Here are all the 27 *Burges*es of this Burg *Obnoxious* to, and under the Protection of Foreign Lords, and Patrons.

Northantscire.

Tempore [2] Regis *Edwardi* fuere in *Northantone* in Dominio Regis LX *Burges*es habentes Totidem *Mansiones*, ex his sunt modo XIV *Vaste*. Residue sunt XLVI. præter hos sunt Modo in Novo Burgo XL *Burges*es in Dominio Regis *Willielmi*.

[2] *Domesd.*
ut *supra*, f. 219.
a. Col. 1.
Northampton.

In the Time of King *Edward* there were in *Northampton* 60 *De-meas*n-*Burges*es of the King, or 60 *Burges*es *Vassals* to him; that had so many *Mansions*, of which 14 are now waste. The Residue are 46. Besides these, there are now in the * *New Burg* 40 *De-meas*n-*Burges*es of King *William*. This is all I find either concerning this as a Burg, or its *Burges*es; only a little further 'tis said, *Burges*es de *Hantone* reddunt *Viccomiti* per Annum XXX Lib. & X Sol. hoc pertinet ad firmam ipsius. The *Burges*es of *Hamton* pay to the Sheriff 30 Lib. and 10 s. by the year, and it belongs to his Farm, (that is, his Farm of the whole Shire.)

* The New Burg was either the Castle, or situate within the Precinct of it.

Hertfordscire.

Burgum [3] *Hertford*, pro X hidis se Defendebat T. R. E. & modo non facit, ibi erant CXLVI *Burges*es in *Soca* Regis *Edwardi*.

[3] *Domesd.*
ut *supra*, f. 132.
a. Col. 1.
Hertford.

Alios XVIII *Burges*es habet Rex *Willielmus*, qui fuere homines Comitibus *Heraldi*, & Comitibus *Leuini*, omnes *Consuetudines* reddunt.

The Burg of *Hertford* in the time of King *Edward* was Taxed as much as Ten Hides, now not so much: There were 146 *Burges*es under the Liberty or Privilege of King *Edward*.

King *William* hath 18 others, that were the Men, or under the Protection of Earl *Herald*, and Earl *Leuin*. They paid all Customs.

Nothing more relating to Burg or *Burges*es in this place.

Eurniscire.

In *Eboraco* [4] *Civitate* Tempore Regis *Edwardi* præter *Scyram Archiepiscopi* fuere VI *Scyræ*, una ex his est *Vastata* in *Castellis*. In *Quinque* *Scyris* fuere Mille & *Quadringente* & *Octodecim* *Mansiones* * *hospitate*, &c.

[4] *Domesd.*
ut *supra*, f. 298.
a. Col. 1.
York.

* Such as were let for an annual Rent, and the Inhabitants bound to reside in them.

De supradictis omnibus Mansionibus sunt modo hospitale in manu Regis reddentes Consuetudinem quadringente IX Minus inter Magnas & Parvas. Et CCCC Mansiones non Hospitale, que reddunt Melior I Denar. & alie Minus, & Quingente & XL Mansiones ita vacue quod nil omnino reddunt. Et CXLV Mansiones tenent Francigene.

In York City in the Time of King Edward, besides the Archbishop's Ward or Division, there were six Wards or Divisions, one of these was destroyed when the Castles were built; in five there were 1418 Mansions inhabited, &c.

* Non hospitale; i.e. they had no constant Inhabitants tied to Residence, but such as went and came as they pleased.

* For things bought and sold in the Market; especially Victuals.

Of all these Mansions there are in the King's Possession inhabited, and paying Custom 409 great and small, and 400 Mansions not * inhabited, the best of which pays one Penny, and others less; and 540 Mansions so uninhabited as they yield nothing at all. The French hold 145. The rest of the Description of this City is taken up, in setting down many particular Proprietors of Mansions, and some particular Customs and Privileges belonging to some of them. No mention of Burgesses, but as it were after the following manner: Sanctus Cutbertus habet I Domum quam semper habuit, ut plures dicunt, quietam ab omni Consuetudine. Sed Burgenses dicunt non eam fuisse quietam T. R. E. nisi sicut una Burgensium, nisi tantum quod propter eam habebat Theloneum suum, &c. Saint Cutbert, or the Church of Duresm, hath one House which it always had, as many say, free from all Custom; but the Burgesses say it was not free in the Time of King Edward, otherwise than one of the Burgesses Houses was free, except by reason thereof he paid no * Toll.

Chenth.

[5] Domesd. ut supra, f. 2. a. Col. 1. Canturbury.

* Money paid for their Liberty and Privilege.

* Probably Forfeitures and Toll in this place.

In Civitate [5] Cantuaria habuit Rex Edwardus L & I Burgenses reddentes Gablum, & alios CC & XII super quos habebat Socam & Sacam, &c. Modo Burgenses Gablum reddentes sunt XIX. de aliis qui fuerant XXXII obierunt, & adhuc sunt CC & XII Burgenses super quos habet Rex Sacam & * Socam, &c.

Burgenses habuere XLV Mansuras extra Civitatem, de quibus ipsi habebant Gablum & * Consuetudinem, Rex autem Sacam & Socam, ipsi quoque Burgenses habebant de Rege XXXIII Acr. prati in Gildam suam, has Domus & hanc Terram Tenet Ranulphus de Columbels, habet etiam quater XX Acras Terra super hac. Quas Tenebant Burgenses in Alodia de Rege, de his omnibus revocat isdem Rannulfus ad Protectorem Episcopum Bajocensem.

In the City of Canturbury King Edward had Fifty one Burgesses paying Rent, and other 212 under his Privilege and Jurisdiction, &c. Now the Burgesses paying Rent are 19, the others which were 32 are dead, and yet there are 212 under the King's Privilege and Jurisdiction.

The Burgesses had Forty Five Houses without the City, of which they had the Rent and Custom, but the King had the Jurisdiction and Soke. The Burgesses also had of the King Thirty Three Acres of Meadow which was toward the maintenance of their Guild, or belonging

longing to their *Society*, besides these, which the *Burgesses* held freely of the King. For all these the same *Ranulf* voucheth the *Bishop* of *Baieux* for his * *Protector*. Nothing more here concerning the *Burgesses*.

*He held them of him, and he was his War-rant for the Possession.

Chenth.

A

Terra Archiepiscopi Cantuariensis.

Archiepiscopus [6] Tenet Aldington in Dominio, &c.

In Romenel [6] sunt quater XX & V Burgenses qui * pertinent ad Aldintone Maner. Archiepiscopi, & valuerunt & modo valent Domino VI Lib.

[6] Domest. ut supra, f. 4. a Col. 1.
* Pertinentes, servi qui ad aliquem pertinent, subditi, tenentes, &c. du Fresn, in verbo. Romeney.

B

The Archbishop holds Aldington in Demeasn, &c.

In Romeney there are Eighty Five *Burgesses*, which belong to Aldinton the Maner of the Archbishop, and they were worth, and now are worth to the Lord Six Pounds, (that is, so much by the Year.)

[7] Huntedune Scire.

C

In Burgo Huntedone sunt IIII * Ferlingi. In duobus Ferlingis T. R. E. fuerunt & sunt modo CXVI Burgenses Consuetudines omnes & Geldum Regis reddentes, & sub eis sunt C Bordarii qui adjuvant eos ad persolutionem Geldi. De his Burgensibus habuit Sanctus Benedictus de Ramesyg. X cum Saca & Soca, & omni Consuetudine: Tantummodo Geldabant T. R. E. Hos abstulit Eustachius per vim de Abbacia, & sunt modo cum ceteris in Manu Regis.

[7] Domest. ut supra, f. 203. a Col. 1.
* Ferlingus, or, Quarentena Terræ tunc continebat 32 acras Terræ. Huntingdon.

D

Ulf Fenisc habebat XVIII Burgenses, modo habet Gislebertus de Gand cum Saca & Soca præter Geldum Regis.

In the Burg of Huntington there were Four Furlongs. In two of them there are now and were in the Time of King Edward 116 *Burgesses*, paying all *Customs*, and the Kings Tax, and under them are 100 *Bordars* which help them to pay the Tax. Of these *Burgesses* the Abby of Ramesy had Ten with *Jurisdiction*, and *Soke-Money*, and all *Custom*. They were only Taxed in the time of King Edward. These *Eustachius* (the Earl) took by force from the Abby, and they are now with the rest in the Kings Hand.

E

Ulf Fenisc had Eighteen *Burgesses*, now Gilbert de Gand hath them, with *Jurisdiction* and *Protection-Money*, except the Kings Tax.

F

The further Description of these Two Furlongs is in noting, who had been *Proprietors*, and what Houses had been destroyed for a place to build the Castle in.

In aliis duobus [8] Ferlingis fuere & sunt CXL Burgenses ad omnes Consuetudines & ad Geldum Regis, & isti habebant quater XX Hugas pro quibus dabant & dant omnes Consuetudines, de his habebat Sanctus

[8] Ibidem.

et us Benedictus de Ramesy XXII. T.R.E. Duo ex his fuere quieti ab omnibus Consuetudinibus, & XXX reddidit quisque X Denar. per Annum.

In the other two *Ferlings* there were, and are 140 *Burgesses* which pay all *Customs*, and the *Kings Tax*, and they had Eighty *Hages* or *Houses*, for which they did give, and do give all *Customs*, of which the *Abby* of *Ramsey* had Twenty two in the *Time* of King *Edward*; Two of these were free from all *Customs*, and Twenty paid every one Ten pence by the Year, the *Residue* of the *Survey* of these two *Furlongs* is as the other, nothing more of the *Burgesses*.

Stadford Scire.

[9] *Domesd.*
f. 246. a Col.
1.
Stafford.

In *Burgo* de [9] *Stadford* habet *Rex* in suo *Dominio* XVIII *Burgenses*, the King hath in *Demeasn* Eighteen *Burgesses* in the *Burg* of *Stafford*, nothing further particularly about the *Burg* or *Burgesses*.

Terra Henrici de Ferrariis, vel Ferrieres.

[1] *Ibid.* f.
248. b Col. 1.
Tutberie
Castle.

Henricus de [1] *Ferreres* habet *Castellum* de *Toteberie*, in *Burgo* circa *Castellum* sunt XLII *homines* de *Mercato* suo tantum *viventes*, & reddunt cum foro III Lib. & X. Sol.

* i. e. *Burges-*
ses.

Henry de *Ferrers* hath the *Castle* of *Tutbury*, in the *Burg* about the *Castle* are XLII * *Men*, which only *Live* upon his *Market*, and they with the *Market* yeild Four Pounds and Ten Shillings.

Sumerfete.

[2] *Domesd.* f.
87. a Col. 2.
Bath.

Rex tenet [2] *Bade* T. R. E. Geldabat pro XX *Hid.* Quando *Scira* Geldabat. Ibi habet *Rex* LXIII *Burgenses* reddentes III Lib. & quater Viginti & X *Burgenses* aliorum hominum reddunt ibi LX *Solid.*

The King holds *Bath*, in the *Time* of King *Edward* it was Taxed at the rate of Twenty Hides, when the *Shire* was Taxed. There the King hath Sixty four *Burgesses*, paying him four Pound by the Year, and there are Ninety under the *Protection* of other *Men* which pay Sixty Shillings yearly, nothing more of this *Town* or its *Burgesses*.

[3] *Ibid.* b
Col. 1.
Taunton.

In [3] *Tanton* there is only mention of Sixty Four *Burgesses* which paid Thirty Two Shillings, but there are many *Privileges* noted to belong to that *Town* then.

Hantescire.

[4] *Domesd.* f.
52. a Col. 1.
Southamp-
ton.

In *Burgo* de [4] *Hantune* habet *Rex* in *Dominio* quater XX *homines* III minus, qui reddunt VII Lib. de Gablo *Terra*, & totidem redderunt T. R. E. In the *Burg* of *Hamton* the King hath in *Demeasn*, or his immediate subjection, Eighty Four *Men* or *Tenants* at least, which pay Seven Pound Rent for their Land; and so much they paid

in

in the time of King Edward, not one word of any *Burgeses* in the Survey of this Town, unless these Eighty four Men were such, as there can be no doubt but they were.

Sudsex.

Terra Willielmi de Waren.

A

Burgum de [5] Lewes T. R. E. reddebat VI Lib. & III Solid. & III obolos de Gablo & de Theloneo ibi Rex Edwardus habebat CXXVII Burgeses in Dominio. The Burg of Lewes in the Time of King Edward did yield 6 l. 4 s. 1 d. ob. for Rent and Toll. There King Edward had 127 *Burgeses* in *Demeasn*, or in immediate Subjection to him, or that were his Vassals.

[5] Ibid. f. 26.
a Col. 1.
Lewes.

B

Sudsex. Terra Comititis Meritonienfis.

In Burgo [6] Pevensel T. R. E. fuere XXIII Burgeses in Dominio Regis & reddebant de Gablo XIII Sol. & VI Denar. de Theloneo XX Sol. De portu XXV Sol. De pastura VII Sol. & III Denar.

[6] f. 20. b
Col. 1.
Pevensel.

C

Episcopus de Cicestre habebat V Burgeses. Edmer Presbyter XV, Ormer Presbyter V, Doda Presbyter III.

Quando Comes de Moritonio recepit, nisi XXVII Burgeses, modo habet ipse in Dominio LX Burgeses reddentes XXXIX Sol. de Gablo. Theloneum III Lib. Moneta XX Sol.

D

Monachi de Moritonio VIII Burgeses de LXVI Denar. Gislebertus Vicecomes I Burgesem de XX Denar. Willielmus de Cabainges II Burgeses de II Sol. Ausfridus III de II Sol. Girolaus II de VI Sol. And so others that had *Burgeses* in this Burg to the Number of Forty one *Burgeses* under several Patrons.

E

In the Burg of Pevensel in the Time of King Edward there were Twenty four *Burgeses* in *Demeasn* of, or Vassals to the King, who paid Fourteen Shillings and Six pence Rent. Tol. Twenty Shillings, Port Custom, or for use of the Port Twenty five Shillings, for Pasture Seven Shillings and Three pence.

The Bishop of Chichester had Five *Burgeses*, Edmer a Priest Fifteen, Ormer a Priest Five, Doda a Priest Three.

F

When the Earl of Moreton received this Burg, he had but Twenty seven *Burgeses*, now he hath in *Demeasn* Sixty *Burgeses*, paying Thirty nine Shillings Rent, Tol. Four Pound, Money Twenty Shillings.

The Monks of * Moreton had Eight *Burgeses* which paid them Sixty six pence, Gilbert the Sherif one *Burges* which paid Twenty pence. William de Cabainges Two *Burgeses* that paid him Two Shillings. Ausfrid Four that paid Two Shillings. Girolaud Two that paid Six Shillings, &c. These were Annual Payments.

* In Normandy.

In

[7] Domefd. f.
23. a Col. 1.
Chichester.

In the *City* of [7] *Chichester*, no mention of any *Burgeses*, only of *Hages*, *Houses* and *Dwellings*, and that it paid Ten Pound yearly to the King, and Five Pound to the Earl in King *Edwards* time. That it was then worth but Twenty five Pound, yet it paid Thirty five Pound.

[8] Ibidem.
Arundel.

Castrum [8] *Harundel inter Burgum & Portum Aquæ, & Consue-*
tudinem Navium reddit XII Lib. & tamen valent XIII.

The *Burg* and *Port*, of the *Castle* of *Arundel*, with the *Custom* of *Ships*, yeilded Twelve Pounds, and were worth Thirteen Pounds.

Morinus habet ibi Consuetudinem de II Burgensibus XII Denar. Ern-
naldus I Burgensem de XII Denar. Sanctus Martinus I Burgensem de
XII Denar.

Morin had there the *Custom* of Two *Burgeses* Twelve pence. *Ernald* of One *Burges* Twelve pence, the *Church* of *St Martin* one *Burges* Twelve pence.

Warwic Scire.

[9] Domefd. f.
238. a Col. 1.
Warwicke.

In Burgo de [9] *Warwic habet Rex in Dominio suo CXIII Domus,*
& Barones Regis habent CXII de quibus omnibus Rex habet Geltum suum.

In the *Burg* of *Warwic* the King hath in his *Demeas*n 113 *Houses*, and the Kings *Barons* have 112, of all which the King hath his *Tax*. And then the *Survey* notes all the *Bishops*, *Abbats*, *Earls* and *Barons*, that were possessed of those *Houses*. Nothing further of the *Bur-*
geses and *Burg* to any purpose, except these Words. *In ipso Burgo*
XIX Burgenses qui habent XIX Mansuras cum Saca & Soca & omni-
bus Consuetudinibus & ita habebant T. R. E. In this *Burg* there are Nineteen *Burgeses* who had Nineteen *Houses*, with *Jurisdi-*
ction, *Protection-Money* and all *Customs*, or *Forfeitures* incurred in them, and so it was in King *Edward's* time.

Terra Regis.

[1] Ibid. Col. 1.
Coleshelle
& Tame-
worth.

Rex tenet [1] *Coleshelle, &c. Et in Tameworde X Burgenses huic*
Manerio pertinentes. The King holds *Coleshull* and Ten *Burgeses* in *Tamworth* belonging to this *Maner*. That is, paid their *Customs* to the *Lords* of it.

Wiltescire.

Terra Regis.

* Ibid. f. 64. b.
versus finem.

*Rex * habet de tertio Denario de Chrichelade V Lib.*

The King hath Five Pounds of the Third Penny of *Cricklade*.

Rex

*Rex * Tenet Albeborn, Ghida tenuit T. R. E. Geldabat pro XL Hidis, &c. Huic manerio pertinebant VI Burgenses de Chrichelade red-dentes LXIII Denarios.*

* Ibid. fol. 65.
a Col. 1.
C 7. fol. 15.

The King holds *Albeborn*, *Ghida* held it in the *Time* of King *Ed-ward*, to this *Maner* there were *Six Burgesses* of *Chrichelade* Servants, or *base Tenents*, who paid yearly *Sixty four pence*.

*Episcopus * Sarisberiensis tenet Ramesberie, &c. In Chrichelade huic Manerio pertinentes V Burgenses, reddunt V Sol.*

* Ibid. f. 66. a
Col. 1.

The *Bishop* of *Salisberie* holds *Ramesberie*, &c. In *Chrichelade* there are *Five Burgesses*, Servants, or *Base Tenents* to this *Maner*, who paid *Five Shillings* yearly.

*Ecclesia * Glastinberiensis tenet Badberie, &c. In Chrichelade I Burgensis reddit V Denarios.*

* Ibid. f. 66. b
Col. 1.

The Church of *Glastonbury* holds *Badberie*, &c. In *Chrichelade*, one *Burgess* paying *Five pence* by the Year.

*Ecclesia * Sancti Petri Westmonasteriensis tenet Ecclesiam de Chri-chelade, & habet ibi plures Burgenses, & Tertium Denarium ejusdem Villa. Totum simul Reddit IX Lib. Quod habet Sanctus Petrus West-monasteriensis.*

* Ibid. f. 67. a.

The Church of *St Peter* at *Westminster*, holds the Church of *Chri-chelade*, and hath there many *Burgesses*, and the *Third Penny* of the same Town; all together yeild to that Church, *Nine Pounds*.

*Ecclesia * Sceptberiensis tenet Ledington, &c. In Chrichelade I Burgensis reddit VI Denarios.*

* Ibid. f. 67. b
Col. 2.

The Church of *Shaftsbury* holds *Ledington*, &c. In *Chrichelade* One *Burgess* (that is, One *Burgess* belonging to that *Maner*) who paid *Six Pence* by the Year.

In Wallia.

In ipso Manerio [2] Roelend est factum noviter Castellum similiter Roelent appellatum, ibi est Novum Burgum & in eo XVIII Burgenses inter Comitum & Robertum.

[2] Ibid. f. 269.
a Col. 2.
Roelent.

In ipso Anno hujus Descriptionis datum est ad firmam hujus Burgi Theloneum pro III Solid.

In the *Maner* of *Roelent* there was lately erected a *Castle* called also *Roelent*: There is a *New Burg*, and in it *Eighteen Burgesses* be-tween the *Earl*, (that is, *Hugh Earl of Cheshire*,) and *Robert* (that is, *Robert de Roelent*).

* That is, in the year when the Description of *Cheshire* and this Coun-try was made.

In the year of this * *Description*, the *Toll* of this *Burg* was let to *Farm* for *Three Shillings*.

By

Tradesmen in the Saxon times, and in the time of the Conqueror had their Patrons, under whose Protection they Traded.

By these Instances (which are all can be found in both *Domesday Books*, that do give any light to the understanding what *Burges* and *Burgesses* were in the *Saxon* times, and in the *Reign* of *Edward the Confessor*; as likewise afterward in the *Reign* of *William the Conqueror*) we find the *Burgesses* or *Tradesmen* in great Towns, had in those times their *Patrons* under whose *Protection* they *Traded*, and paid an *acknowledgement* therefore; or else were in a more *Servile Condition*, as being in *Dominio Regis vel aliorum*, altogether under the *Power* of the *King*, or other *Lords*, and it seems to me that then they *Traded* not, as being in any *Merchant-Gild*, *Society* and *Community*, but meerly under the *Liberty* and *Protection* given them by their *Lords* and *Patrons*, who probably might have *Power* from the *King* to *Licence* such a number in this or that *Port*, or *Trading Town*.

And any Man would think the *Charter* of the *Conqueror*, obtained by *William Bishop* of *London*, looked this way, and that it was a meer *Instrument* of *Protection* rather than a *Charter*. The *Saxon Words* are these, as they are found in [3] *Holinshed*.

[3] Vol. 3. f. 15. n. 20.

See these words in more plain Saxon, pat. 2. Ed. 4. part. 5. m. 23. per in-
specimus.

Williem King grets Williem Biscoep & Godfred Port-Refan, & ealle ya Burghwærn binnen London Frencise & Englise Frendlice, & ic Kiden eoy, yeet ic wille git ben ealra weera Lagay-Weord, ye get Weeran on Eadwerds Daege Kings. And ic Wille yeet aelc Child by his Fader yrfnume after his Fader Daege. And ic nelle ge Wollian yeet adnig Man eoy aenis Wrang beode. God eoy heald. That is,

* Port-Reve, from Port an Haven or Harbour, and Reve, an Officer, Minister, or Bayliff, that doth business for other Men, and the Port-Reve was the Kings Bayliff, that looked after his Customs and Tolls in the Port of London, before they were let to Fee-Farm. The Interpretation of the Conquerors Charter, or protection to the City of London.

William the King Greets William the Bishop, and Godfrey the Port-Reve, and all the Burgesses, or rather Inhabitants of the Burg, within London French and English Friendly. And I declare to you, that I will that you be all Law-Worthy as ye were in King Edward's Days, and I will that each Child be his Fathers Heir, after his Fathers Days. And I will not that any Man command any Wrong to be done to you. God you hold, or Keep.

There are two things remarkable in this *Charter*, (as 'tis call'd.) First, the *Burgesses* were declared, all to be *Law-Worthy*. Secondly, That their *Children* should be their *Heirs*. Now there were two ways of being *Law-Worthy*, or having the benefit of the Law. By the *State* and *Condition* of Mens *Persons*, so almost all *Free-Men* had the free benefit of the Law, but Men of *Servile Condition* had not, especially such as were in *Dominio*, in *Demeasfn*, for they received *Justice* from their *Lords*, were *Judged* by them in most *Cases*, and had not the true benefit of the Law; so neither as to the second *observable* in this *Charter*, could their *Children* be their *Heirs*, for they held their *Lands* and *Goods* at the *Will* of the *Lord*, and were not sure to enjoy them longer than they pleased him. The Second way of being *Law-Worthy* was, when Men had not committed any *Crimes*, or done any thing for which they forfeited the Law and deserved to be *Out-Lawed*, then they were said to be *Legales homines, recti in Curia*, or *Law-Worthy*, but not so properly as in the first Sense of the Word.

From

From hence we may make a very probable *Conjuncture* at the true meaning of this *Protection* or *Charter*. It is not to be doubted, but that the *Burgesses* of *London* had obtained of the *Saxon* Kings several *Liberties* and *Immunities*, amongst which this was one, to be so far Free, as not to be in *Dominio*, or so *Obnoxious* to any Lord, but that by reason of their *State* and *Condition*, they might be *Law-Worthy*, that is, have the free benefit of the *Law*, and had likewise further obtained, (if it was not then a consequent of their *Personal State* and *Condition*) that their *Children* should be *Heirs* of their *Lands* and *Goods*, and in both these were Free from the *Injuries*, and unreasonable *Demands*, and *Power* of any *Severe Lord*; So that all the application made by their * *Bishop William*, and not unlikely by *Godfrey* the *Port-Reve*, to the *Conqueror* for them, was, that their *State* and *Condition* might be the same it was in *King Edward's* Days, that their *Children* might be their *Heirs*, and that they might in both be *Protected* from the *Injury* and *Violence* of *Imperious Lords*, which by the *Prevalency* of their *Bishop* were granted; considering therefore that by the foregoing *Instances* it is clear, that many or most *Burgesses* of other *Burghs*, were in *Dominio* either of the *King*, or some other *Lords* or *Patrons*, in the time of *King Edward*, and that the *Londoners* might fear the *Conqueror* would break in upon their *Privileges*, and reduce them to the same *Condition*; this *Explication* seems to discover the *Genuine* meaning, and very *Import* of this *Protection*, or, as 'tis commonly called, *Charter*.

* He had also been Bishop of *London*. Sixteen years, in *King Edward's* time.

How long in most *Burghs*, very many *Burgesses* remained in this *Servile State*, or others in a *Middle* or *Neutral State* of between *Servitude* and *Freedom*; I cannot say certainly, but do suppose, until our *Ancient Norman Kings* granted by their *Charters*, there should be *Merchant* or *Trading-Gilds*, *Communities* and *Societies*, in *Burghs*, and gave them * *Free Liberty* of *Trade*, without paying *Toll* or *Custom* any where, other than their *Fee-Farm-Rent* in *Lieu* of them, where that was *Reserved*; or to raise and *Multiply* such *Payments* by *Incouragement* of *Trade*, which by the *Grants* of such *Liberties* did mightily *Increase*, where the *Kings Bayliffs* collected them.

A Conjecture when the Free condition of *Burghs* began.

* See *Append. N. 1. a & b. & N. 2.* concerning great *Yarmouth*.

In *France* and *Countries* adjoining, the *Chief* and *Ruling* *Inhabitants* of *Cities*, *Burghs* and *Towns*, that enjoyed these *Privileges* were called *Communities*, which in *Latin* were variously expressed, by the Words [4] *Commune*, *Communia*, *Communio*, *Communitas*: *Du Fresnoy* in his *Glossary* and *Explication* of these Words, says, The *Kings* of *France* erected these *Communities* to cheque the *Insolencies* of their great *Vassals*, and to protect them from their over-grown *Dominion* and *Extravagant Power* over them, that they reputed such *Cities* and *Towns* their own, where there were such *Communities*; and truly, for that the *Inhabitants* were in a manner *Freed* from the *Dominion* of their *Lords* thereby, and became immediately *Subject* to their *Kings*, who by reason of such *Establishments* had *Power* to call them forth into their *Armies*, many such *Communities* were erected in *France* by *Dukes*, *Earls* and other great *Vassals* of that *King*, which were confirmed by his *Assent*, and *Supreme Right*, and where he pleased did institute, and take away such *Communities* without consulting their *Lords*, if the *Inhabitants* offended. The same *Author* says,

[4] *Du Fresnoy*, in *verbo*. The *Communities* of *Cities* and *Burghs*, here and in *Foreign parts* erected or confirmed by *Kings*.

The Rights of, or what makes a Community of a City, or Burg.

Communities, when they first began to be frequent in France, &c.

The Burgh-Laws when first published in Scotland.

[5] Glanvil. lib. c.

[6] Leg. Burg. Scot. c. 17.

[5] Append. n. 5.

[6] Ibid. n. 6.

[7] Append. n. 3.

[8] Append. n. 7
Why Burghs and Burgeses were called Free-Burghs and Free-Burgeses.

that *inter Communie Jura precipua recensentur*, Scabinatus, Collegium, Majoratus, Sigillum, Campana, Berfredus & Jurisd-
aio. That is, the chief things which constituted a Community, were, a Major, Eschevins or Aldermen, a Body, Society, Fraternity or Common Counsell, out of which they were to be chosen, a Bell-Fry and Bell, to call them together to publick Meetings, a Common Seal and Jurisdiction. He gives an account of Ninety seven in France, and parts adjoyning, which were Erected by Charters of the Ancient Kings thereof, and their great Vassals. The most Antient, I find amongst them, is the Charter granted by Lewis the Sixth called the Gross, to the Town of St. Riquier in Pontieu, A. D. 1126. He began his Reign, July 26. A. D. 1108, and was Contemporary to our Henry the First, they were much increased and multiplied by his Successor Lewis the Seventh, who was Contemporary to our King Stephen, and Henry the Second.

About the same time the Laws and Customs of the Burghs of Scotland were published by David the first King of that Nation, who began his Reign A. D. 1124. and was Contemporary to our Henry the First and King Stephen.

It wants not Probability, though it manifestly appears not; that William Rufus, Henry the First and King Stephen, being all Usurpers, granted large Immunities to Burghs, to secure them to their Party; and by the time that Glanvil wrote, which was in the Reign of Henry the Second, Burghs had so great Privileges, as that if a Bond-Man or Servant [5] remained in a Burgh as a Burgeß or Member of it, a Year and Day, he was by that very Residence made Free, and so it was in Scotland, he was always free and enjoyed the Liberty of the Burgh, if he were able to buy a Burgage, and his Lord claimed him not within a Year and a Day. Si [6] homo Comitibus vel Baronibus seu cujuscunque Servus fuerit, venerit in Burgo; Et emerit sibi Burgagium, & manserit in eodem Burgagio per unum Annum & unum Diem, sine Calumnia Domini sui vel ejus Ballivi: Semper erit Liber, & Libertate Burghi gaudebit sicut Burgenfis, nisi sit servus Domini Regis. And in or before the Sixth year of this King, he granted, by Charter before cited, to the Burgeses of Wallingford, many large Privileges for the Service they did him against King Stephen, in recovering his Hereditary Right. Theobald, Archbishop of Canturbury was a Witness to this Charter, who died A. D. 1160. in the Sixth of Henry the Second; Winchester also and Oxford had Charters in the Reign of Henry the Second, as appears by the [5] Charter of Portsmouth in the Fifth of Richard the First, and that of [6] Andover in the Sixth of King John.

Why these were called Free-Burghs, and why the Tradesmen in them were called Free Burgeses, the Charters themselves will inform us, in the Charter of [7] Dunwich, Johannis 29 Junii. Sciatis, nos concessisse quod Burgum de Dunewiz. Sit Liberum Burgum. So in the Charter of Bridgwater, granted to William Briwer. [8] Quod Brugge Walteri, 2 Johannis 26 Junii, sit Liberum Burgum, & quod ibi sit Liberum Mercatum, and that the Burgeses of the same Burg should be Free Burgeses and quiet of Toll, Passage, Pontage, Lastage and Stalage, and should have all Liberties and Free Customs, Quittances, which

which belonged to the Crown, through all his Territories, and all Ports, except the City of London. Likewise in the Charter of Helleston in Cornwall, 2 Johan. *Ut sit* [9] *Burgus noster de Helleston Liber Burgus, &c.* After the same manner King John granted to the Burgeses of the Town of [1] Yarmouth in Norff. *Quod Burgenses nostri de Gernemua habeant Burgum de Gernemua ad feodi Firmam in perpetuum; & quod Burgus ille sit Liber Burgus in perpetuum.* In the Fifth of the same King, *Noveritis ut Villa de Lenna sit* [2] *Liber Burgus in perpetuum.* And in the Charter to Hertlepoole in the Bishoprick of Durham [3] *Sciatis nos concessisse & hac presenti Charta nostra confirmasse hominibus de Hertlepoole, quod sint liberi Burgenses.* Which Liberty granted to the Burgs and Burgeses (for all Inhabitants of Burgs were not such) was a Freedom to Buy and Sell freely without disturbance, a Liberty from paying Toll, Pontage, Passage-Money, Lestage, Stallage, &c. In the Mercates and Fairs in these Burgs, and in coming to, and going from them, and for these things, the Burgs were called free Burgs, and the Burgeses Free Burgeses, and for nothing else, as is most evident from the Charters themselves.

[9] Append. n. 8.

[1] Append. n. 2.

[2] Append. n. 9.

[3] Append. n. 10.

What the Freedom of Burgs and Burgeses was, and in what it consisted.

From the Burg and other Laws of Scotland; the same thing is evinced; in the Burg-Laws, *Tit. de Vigiliis*, C. 86, by which every House was bound to find one to Watch and Knock at their Doors with a Staff. *Exceptis Viduis, quæ tamen si Communicaverint cum Vicinis suis, in Emendo & Vendendo, Vigilare debent, & alia onera supportare; except* Widows, who notwithstanding, if they Bought and Sold as their Neighbours did, ought to Watch and bear other Burthens. Again Cap. 108. *Nullus Burgensis qui manet extra Burgum potest aliquid Emere nec Vendere, nec Liber esse in aliquo Burgo nisi in illo Burgo in quo est Burgensis.* And in Chap. 139. *Statuit Rex David, quod omnes Burgenses sui sint liberi per totum Regnum suum, tam per aquam quam per Terram, ad Emendum & Vendendum, & ad commodum suum faciendum absque perturbatione, super plenam suam forisfacturam.*

What the Freedom of Burgs and Burgeses was, by the Burg Laws of Scotland.

King David made a Law, that all his Burgeses should be free to Buy and Sell in his whole Kingdom, as well by Water as by Land, and to make their advantage without disturbance, upon pain of full forfeiture to such as disturbed them. In the Statutes of King William Chap. 35. *Item statuit, quod Mercatores Regni habeant Gildam suam Mercatoriam, & ita gaudeant in pace, cum libertate Emendi & Vendendi, ubique infra limites Libertatum Burgorum, ita quod quilibet sit contentus sua Libertate, & nullus occupet Libertatem alterius, &c.* Also he decreed, that the Merchants of the Kingdom should have their Merchant-Gild, and so peaceably with the Liberty of Buying and Selling every where within the Liberties of their Burgs, so that every one be Content with his Liberty, and none should * Usurp the Liberty of another, &c. By understanding wherein their Liberty consisted, we come to know what Men, the Burgeses were, to wit, Buyers and Sellers, Ordinary and Common Tradesmen, (then called Merchants) such as are commonly found in ordinary Inland Burgs, & Mercate Towns, such as frequented Fairs and Markets. So in a Plea [4] between the Abbat of Westminster, and the Tradesmen that resorted to his Fair there in 30th of Edward the First, they are often called *Mercatores* Merchants; likewise in the 34th of the same King in the Parlement holden at [5] Westminster on the

* That is, use his Trade.

[4] Riley's Placita Parliamentar. f. 292, 293, 294, 295.

[5] Inter Communia de Terminis Trinitat. Ann. R. R. Ed. 1. 34. cum Remem. Thef. in Scaccario.

[6] f. 453. lin. 6.

morrow after Trinity Sunday, the *Citizens*, *Burgesses*, and others of the Kings *Demeasns* Subjects, granted unto him the 20th part of their Goods, &c. *Mt. Westminster*, speaking of this very Gift, says, [6] *Mercatores Vicesimum Denarium concesserunt*, and in all Old Authors; English and French, Ordinary *Tradesmen* are termed *Merchants*. In the Agreement between *Richard* the First King of *England*, and *Philip* King of *France* at *Messina*. *Statutum est a predictis Regibus, quod Mercator, de quacunque Mercatione sit Mercator, non potest emere in exercitu panem ad Vendendum, ne farinam, nisi aliquis Alienigena illam adduxerit, & de illa panem fecerit, nec Bladum nisi de illo similiter panem fecerit.* Hoved. f. 384. b. n. 30. Here *Bakers* and *Sutlers* were accounted *Merchants*. *Alii Mercatores, de quacunque Mercatione fuerint, in Decem Denarios tenentur Lucrari unum*, Ibid. Here other ordinary *Tradesmen*, that brought Goods into the Army to sell, were termed *Merchants*. *Aldermannus Gildæ Mercatorum Oxoniæ, Judex Gildæ Oxoniensis. Qui Mercatorum lites dijudicabat.* *Monast. Angl. Tom. 2. f. 141.* Here the ordinary *Tradesmen* of *Oxford*, were called *Merchants*, and that they were so Denominated, the very words, *Gilda Mercatoria*, do sufficiently prove it, as it was granted to most ordinary *Inland Burghs*.

For the *Gild* or *Community* there did always consist of a Select Number of Ordinary *Tradesmen*, yet of the most *Discreet* and *Wealthy* of the *Burgh*, and by whom the *Bulk* of the meaner sort of *Burgesses* (or, as they are now called, *Freemen*) were *Superintended* and *Governed*. In the *Iter* or *Circuit* of the Kings *Chamberlain*, who had the *Superintendency* of all *Burghs* in *Scotland*, and went from *Burgh* to *Burgh*, and punished all *Faults* and *Crimes* committed there, and also the Chief Officers, if negligent in their Duties, in the Third Chapter of the *Iter*, intituled, *Modus Tenendi Iter*, hath this Article; *Item, petantur in Scriptis omnia Nomina Burgensium infra habitantium, & extra, videlicet, Nomina fratrum Gildæ per se, & Nomina aliorum per se.* Also, that all the Names of the *Burgesses* be demanded in Writing, as well of those that dwell within the *Burgh* as without; that is to say, the Names of the *Brethren* of the *Gild* by themselves, and the Names of *others* by themselves; from hence it is clear, the *Gilds* or *Communities* of all the *Burghs* in *Scotland* were a *Select Number*, and so they were in *France*, *Germany*, and all other places where they had *Burghs*, or *Municipal Towns*, and in *England* the same.

[7] Hoved. f. 399. b. n. 20. 30. 40.

In the [7] Year 1191. which was the Second of *Richard* the First, *John Earl* of *Moreton*, the *Archbishop* of *Roven*, and all the *Bishops*, *Earls* and *Barons*, with the *Citizens* of *London*, met in *S^t Pauls Church-yard* on the 11th of *October*, deposed the *Chancellor*, *William Longchamp Bishop* of *Ely*, the King then in the *Holy Land*, and made *Walter*, *Archbishop* of *Roven*, *Chancellor* in his stead, and the same Day the said *Earl* and *Archbishop*, and other the Kings *Justices*, Granted to the *Citizens* of *London*, to have their *Community*. *Et eodem Die Comes Moretonii, & Archiepiscopus Rothomagensis, & alii Regis Justitarii concesserunt Civibus Londoniarum habere Communiam suam.* And the same Year the *Earl* of *Moreton* and the *Archbishop*, and almost all the *Bishops*, and *Earls* and *Barons* of the Kingdom, did Swear firmly and stedfastly to *Defend* and *Preserve* that *Community*, so long as it pleased the King. *Et eodem Anno Comes Moretonii, & Archi-*

A Grant to the
Citizens of
London, that
they should
have a Com-
munity.

Archiepiscopus Rothomagensis, & fere omnes Episcopi & Comites & Barones Regni juraverunt Communiam illam firmiter, & inconcusse Servaturos; quamdiu Domino Regi placuerit.

- This Community, which was thus granted to the *Citizens*, was a *Select Number*, for the better management of the *Affairs* of the *City*, for no doubt but the *Citizens* met *promiscuously* in *S^t. Pauls Church-yard*, and to avoid *confusion* for the future, it was desired by themselves, and *thought requisite* by *Earl Moreton*, the *Chancellor* and *Kings Justices*, that they should have such an *Establishment*, the better to assist them in their *Seditious Practices*, and for the more advantage of the *Citizens*; otherwise, why should the *Citizens* desire it, and the *Nobility* be *Importuned* to *Swear* the *Defence* of it? The *Citizens* that were of this *Constitution* *Swear Fealty* to the *King*, and also to his Brother [8] *John Earl of Moreton*, against all Men if he should *Dye* without Heirs, and some *Obligation* there was upon them without doubt to assist in * *War*, as well as there was upon the *Communities* in other Nations, if *Earl John*, and the *Bishops* and *Barons* of his Faction, could have had an opportunity to have used them. In *Rigord*, and other *Ancient French Historians*, we read often of the *King of France* calling out his *Communities* to *War*, and *Hoveden* aforesaid tells us [9] that A. D. 1197. On the *Eve* of *S^t Michael*, *Philippus Rex Franciæ* Magno congregato Exercitu Militum, & Communiarum Suarum, Exiens de * *Mantua profectus est versus Curceles*. Here it seems as if he had as much *Power* to call his * *Communities* out to *War*, as he had to call his *Knights*, and this may be the reason why *London* in the time of *Edward the Third*, and some other *Cities* and *Burghs* in *England* had *Charters* of *Privilege*, and *Grants* from our *Antient Kings*, that they should not be called out to *War*, or forced to march out of the *Limits* of their own *Jurisdiction*.
- Whether this *Community* mentioned by *Hoveden* was the first that was granted to *London*, or whether they had One before, and it was *Dissolved* by *King Henry the Second*, for their *constant Rebellion* against his Mother *Maud the Empress* and *Himself*, and never restored untill this time, I know not. They had not a *Mayor* untill the First of *Richard the First*, the Year before this, and perhaps might not have a *Community* untill the Second of his *Reign*. However it was then, it appears, by the *City* [1] *Books*, that in the time of *Edward the first*, and the succeeding *Kings*, it had *Communia's*, and the first mentioned in these *Books* consisted of *Two* in every *Ward*, in all *Forty*, who were *Elected* by the *Probi homines* of the *Ward*, which *Probi Homines* are explained by these Words, *Discretiores, Sapientiores, & Meliores de Warda*; the most *Discreet, Knowing, and Best Men* of the *Ward*. Such were the *Electors*, and of such was the *Community* to consist, sometimes the Number of the *Communia* (which word is more frequently used in their *Books*, than *Communitas*) was made up of 2, 4, 6, 8. out of every *Ward*, or out of some *Wards* more, others fewer, according to the *Quantity* of the *Ward*, and the *Summons*, at least *Direction*, of the *Major*, or of him and the *Sheriffs*.

There is a notable *Writ* or *Record* much to this purpose in the time of *King* [2] *Henry the Sixth*, concerning the *Election* of the *Mayor* and *Aldermen* of *London*; setting forth, that his *Progenitors Kings*

[8] Ibid. n. 40.

* *Edward the Second* demanded of the *Citizens* of *London*, Aid against his *Queen*, in the 19th of his *Reign*: when she and other *Rebels* landed with *Foreign Force*, upon *Deliberation*, *Exire Civitate sua se nolle faciebantur ad pugnam, nisi possent (juxta libertatem eis Concessam) ipso eodem Die reverti ante solis occasionem*, *Walsing.* f. 123. n. 40.

[9] f. 444. b. lin. 28.

* *Mant.* upon the *River Seyn* in the *Isle* of *France*.

* See *du Fresin* in the word *Hestis*, where it evidently appears, that the *Communities* of *Cities* and *Burghs* in *France*, were to send out their *Horle* and *Foot* upon *Summons* into the *Host* or *Army*.

[1] *Lib. A.B.C.* thro'zhout.

[2] *Append.* n. 11.

of

of England, had by their *Charters* granted to his *Citizens* of the City aforeſaid *Liberty* to chooſe a *Mayor* and *Aldermen* among themſelves, whom they pleaſed, and to preſent them to the *Lord Treasuſer* and *Barons* of the *Exchequer*, the *King* not being there, that according to *Cuſtom* they might be *Admitted*. And that though according to *Cuſtom* in former times, they were wont to be choſen by the *Aldermen*, and more diſcreet Perſons of the ſaid City, ſpecially ſummoned and *Warned* for that purpoſe, ('tis not ſaid, how many out of every *Ward*) yet ſome that had not, nor ought to have, any *Intereſt* in ſuch *Electi- ons*, came, and with their *Noiſe* and *Clamors* diſturbed them. He therefore *Commanded* the *Mayor* and *Sheriffs* to make *Proclamation* and *Prohibit* all from coming, that had *no right* to be there, and that the *Electi- ons* ſhould be made by the *Aldermen* and *Others*, more *Diſcreet* and *Able Citizens* of the ſaid City, ſpecially *Summoned* for that purpoſe, according to *Cuſtom*, letting them know, that if any one was *Chosen* any other way and *preſented* to Him, or the *Treasuſer* or *Barons* of the *Exchequer*, he ſhould not be *Admitted*, and alſo *directing* them to *Arreſt*, and *Commit* to *Prison*, all ſuch as they ſhould find *doing con- trary* to the *Proclamation* and *Inhibition*.

In the 29th of *Edward the Firſt*, *John Blund* was choſen *Mayor* [3] *per Commune Conſilium Elye Ruſſel tunc Majoris*, and the *Alder- men* there named; and the *Sheriffs*, *per aſſenſum Duodecim proborum hominum Singularum Wardarum*, by *Aſſent* of *Twelve Good Men* of every *Ward*. In the 31 of the ſame *King*, alſo in the 32 and 33. *John Lincoln* [4] and *John Blund* the third and fourth time choſen by *Twelve bonos & legales homines de qualibet Warda Summonitos*; *Twelve Good and Lawful Men Summoned* out of every *Ward*. In that 31 Year, *William de Coumb-Martin*, and *John de Burford* were [5] elected *Sheriffs* by the *Mayor* and *Aldermen*, *in preſentia XII de Sin- gulis Wardis Summonitorum ad Eligendum & recipiendum Vicecomites ſuos*, in the preſence of *Twelve* of every *Ward*, *Summoned* to chooſe and receive their *Sheriffs*.

In the Sixth of *Edward the Second*, [6] *William Wellesford* and another were choſen *Sheriffs* by the *Mayor*, *Aldermen*, and *Twelve* *Summoned* out of every *Ward*. *Wellesford Dyes*, and *Adam Ludkin* was *Chosen*, *per Sex & amplius de Singulis Wardis Summonitos*, by *Six* and more *Summoned* out of every *Ward*.

In the Seventh of *Edward the Second*, *Nicholas* [7] *Farendon* was choſen *Mayor* by the *Mayor*, *Aldermen*, *Sheriffs*, & *per Communitatem*, by the *Community* aſſembled. The [8] *Sheriffs* choſen the ſame Year by the *Mayor*, *Aldermen*, and *per Communitatem Summonitam*, &c. by the *Community* *Summoned*, &c.

In the Eighth of *Edward the Second*, the *Mayor* and *Sheriffs* were choſen as before, and [9] *per probiores homines Communitatis de qua- libet Warda*, by the better Men of the *Community* of every *Ward*.

In the 20th of *Edward the Third*, it was [1] *Agreed*, That from thenceforth there ſhould come the *Mayor*, *Aldermen*, and alſo out of every *Ward* of the City of *London*, *Twelve*, *Eight*, or *Six*, according as the *Ward* ſhall be great or ſmall of the *Richeſt* and *Wiſeſt* of every

Ward;

[3] Lib. c. fol. 62. b.

How the Mayor and Aldermen of London were choſen.

[4] Ibid. f. 111, 112, 113.

[5] Lib. c. f. 111. b.

[6] Lib. d. f. 3. a.

[7] Ibid. b.

[8] Ibid.

[9] Ibid. f. 4. a.

[1] London Liberties, &c. f. 2. & f. 11.

Ward; and such Twelve, Eight or Six, with the Mayor and Aldermen, shall intermeddle, and choose a Mayor and Sheriffs for the year following. In all these Elections, and all others in the Times of Edw. 1, 2. 3. Rich. 2. Hen. 4, 5, and 6. no mention is made of the Common Council, but there can be no doubt made but that the Common Council-Men in every Ward were all summoned, and the others that were summoned besides them, were sent to by the Mayor's Direction, and happily, not without the Advice of the Aldermen and Sheriffs; There being not the least notice of their being chosen by the Ward.

These Elections are recorded by various Expressions, and probably were not made always according to the same exact Form, until the Fifteenth of Edward the Fourth; when the [2] Masters, Wardens, and Liveries of the several Companies were taken in. So that since that time, the Elections of the Mayor and Sheriffs, &c. are made by the Mayor, Aldermen, Common Council, and Them, according to the Act of Common Council then made.

In the year 1650. there was a great Controversie, Whether the Right of Electing Lord Mayors, Sheriffs, &c. rested in the Lord Mayor, Aldermen, and the Freemen in general by their Representatives to be chosen in every Ward: Or in the Mayor, Aldermen, Common Council, Masters, Wardens, and Liveries of the several Companies; managed by Judge Hales, and Mr. Serjeant Maynard of Council for the Livery-Men, and Major John Wildman, and one Mr. Price Agents and Speakers for the Freemen, before the Lord Mayor, Court of Aldermen, and Common Council. Now in which soever the Right of Election remained, the Arguments on both sides, and the Records then produced, and insisted upon by them, do manifestly prove, That the Community of the City, or as 'tis called the Commonalty, did consist of a Select Number of the more discreet, able, wise, and rich Citizens, and was not the Body of Freemen in General: And that such a Select Number in Cities and Burghs was most frequently expressed, meant and understood, by the Latin Words, *Communa*, *Communia*, or *Communitas*. And is, or ought to be so, at this Day.

See the [3] Title of the Common Council holden in the Chamber of the Guildhal of the City of London, before the Mayor, Aldermen, Sheriffs, and the greater part of the Commoners in Common Council assembled. All these together being a Select Number in Common Council assembled, are the Commonalty or Community of the City of London, according to the Ancient Import, and true Signification of those Latin Words in all Nations.

In the [4] Establishment or Charter of Roven, and Falaise in Normandy, the Government of the City and Town was by a Mayor, Twenty Four Jurats, (so called, because sworn, &c. when they were chosen and admitted) and an Hundred Pares or Peers. The Twenty Four Jurats were annually chosen, out of the 100 Peers, by the 100 Peers; whereof Twelve were Eschevins, that is, Aldermen, and the other Twelve, Consultores, Counsellors, and all these together were called the *Communia*, or Community of that City, and Town with the Castle.

[2] Ibid. f. 2.

The Community of the City of London a Select Number.

[3] See Petition, &c. Jan. 13. 1680. in Print.

Of what Persons the Community of London consists.

[4] Scriptor, Norman. Veteres, by Du Chesn. f. 1066.

What the Community of Roven in Normandy was.

Yet

* At the end of the 38 Membrane and beginning of the 39th.

Mayor and Commonalty distinct from all other Burgeses, &c.

The Seals of Communities.

[5] De Re Diplom. f. 148. f. 149. B. C.

When they began to be in use.

The main cause of the Cities and Burgeses being first Summoned to Parlement.

Yet further to make it clear beyond all Exception, what the Community or Commonalty of a Burgh or City was, I will add a Clause in a Private Act of Parlement, made for the Establishment of certain Rents, and other Matters between the Burgh of *Plimouth*, and the Prior and Convent of *Plimpton*, in the Time of King *Edw. the Fourth*, in these English words, as 'tis to be found upon the Parlement Roll, 4. *Edw. 4. M.* 38. 39. And if the sayd yerely Rent of xxix l. vii. s. viii d. be behind in part, or in all, not payd to the same Priour of Plympton, and Covent, and to their Successours in the same Priorye by xv Dayes next after Eny of the said Fests of Payment, That then it be Lefull unto the same Priour and Covent and their Successours, and to their Officers and Ministers to Distreyne in the said Borough, and in Name of Distresse to take all the Goods and Catalles of the said Maire and Comonalte, and of all other Burgeis of the same Borough, and of all other Persones resident and Dwelling in the same Borough, and Precinct of the same, and in every Parcel thereof.* Here we find the Mayor and Commonalty of *Plymouth* a Select Number, and distinct from all other Burgeses of that Burgh, and all other Persons Resident and Dwelling within the same. And what the Mayor and Commonalty of this Burgh were, other than the Mayor, Aldermen, and Common Council, or the Mayor and Chief Burgeses, which were the Governing part of the Town, let any one, that can, tell me.

These Communities had their Seals, by which they Ratified their Grants and Charters, and made Authentic all their Matters of Moment, almost as Ancient as their Being. The Learned [5] *Mabilon*, after he hath mentioned the Seals of the Communities of some Towns and Burghs, saith, *Idem censendum est de aliis Communiarum Sigillis, quæ à Seculo duodecimo Originem habuerunt.* We are to think the same, of the Seals of other Communities which began to be in use about the Twelfth Century: He might have added, and some time before.

From Treating of the Constitution of Burghs, and shewing what they, and the Burgeses anciently were, and of what Value and Estimation in the Nation, I shall proceed to shew, what the Parlement-Burghs were, and when, and for what cause at first they sent Representatives to Parlement.

In the Reigns of King *John*, and *Henry the Third*, we do not find any Citisens or Burgeses in Great Councils or Parlements, unless they were in that of the 49th of *Henry the Third*; at which time, the Citisens of *York* and *Lincoln*, and other Burghs of *England* were writen unto, To send two Citisens, and two Burgeses according to the forms of the Writ directed to the Bishop of *Durham*. See my Answer to Mr. *Petyt*, f. 137. A. f. 140. B.

The main cause of their being first Summoned to Parlement, was, to give their Consent to Taxes propounded to, or imposed upon them; before that time in the Reigns of those two Kings, they were Talli-ated or paid Tallage according to the Imposition upon them, or Acceptance of what they offered by the Kings Officers, or Justices, as also

A in the time of *Edward the First*, untill after the 34th year of his Reign, as is manifestly proved in my *Animadversions* upon a Book, called, *Jani facies Nova*, Fol. 178, 179. 130. and further appears in *Ryley's Placita Parliamentaria*, in the 33d of this King, Fol. 259. 264, 265. 275, 276. Although several years before, *Citizens* and *Burgesses* were *Summoned* to *Parlement*, and there gave their *Consent* to the *Raising* and *Paying* of *Taxes*. In the 32d Year of his Reign he caused a * *Tallage*, without *Common Consent*, to be *Assessed* by *Commissioners* in all his *Cities*, *Burghs* and *Dmeasns*, in every *County* of *England*, either by *Heads*, (*Capitatum*) or in *Common*, and gave particular direction that the *Tallage* of *Norwich* should be *Assessed* at four Hundred Pounds.

* See the *Commissions*, Pat. 32 Ed. 1. in *Calna*.

B The first time we find any *Citizens* or *Burgesses* *Summoned* to *Parlement*, was, in the 23d Year of *Edward the First*, according to the *Tenor* of this *Writ*.

Citizens and *Burgesses* first *Summoned* to *Parlement*.

C Rex [6] *Vicecomiti Northampton Salutem*, quia cum *Comitibus*, *Baronibus*, & ceteris *Proceribus Regni nostri* super remediis contra pericula quæ eidem *Regno* his diebus imminere providendus, *Colloquium* habere *Volumus* & *Tractatum* per quod eis mandavimus, quod sint ad Nos *Die Dominica proxima post festum Sancti Martini in Hyeme proxime futurum* apud *Westmonasterium* ad *Tractandum*, *Ordinandum*, & *faciendum* qualiter sit hujusmodi periculis obviandum, tibi *Præcipimus* firmiter *injungentes*, quod de *Comitatu prædicto* *Duos Milites*, & de qualibet *Civitate ejusdem Comitatus* *Duos Cives*, & de quolibet *Burgo*, *Duos Burgenses* de discretioribus, & ad laborandum potentioribus sine *Dilatione* eligi, & eos ad Nos, ad prædictos *Diem* & *Locum* venire facias. Ita quod dicti *Milites* plenam & sufficientem potestatem pro se, & *Communitate Comitatus prædicti*, & dicti *Cives* & *Burgenses* pro se & *Communitate Civitatum* & *Burgorum prædictorum* *Divisim* ab ipsis tunc ibidem habeant. Ad faciendum tunc quod de *Communi Consilio* ordinabitur in præmissis. Ita quod pro defectu hujusmodi potestatis negotium prædictum infectum non remaneat, quoquo modo; Et habeas ibi nomina *Militum*, *Civium* & *Burgensium* & hoc *Breve*. Teste Rege apud *Cantuariam* tertio *Die Octobris*.

[6] *Claus. 23. Ed. 1. m. 4. Dorf. De Parliamento Tenendo.*

E The King to the *Sheriff of Northampton-shire*, Greeting. Because we desire to have a *Conference* and *Treaty* with the *Earls*, *Barons*, and other *Great Men* of our *Kingdom*, to provide *Remedies* against the *Dangers* the same *Kingdom* is in at this time, therefore we have *Commanded* them, that they be with us at *Westminster* on the next *Sunday* after the *Feast of St Martin* in *Winter* next coming, to *Treat*, *Ordain* and *Do*, so as those *Dangers* may be prevented. We *Command* and *Firmly enjoin* thee, that without delay thou dost cause to be *Chosen*, and to come to us, at the time and place aforesaid, two *Knights* of the *County* aforesaid, and of every *City*, two *Citizens*, and of every *Burgh*, two *Burgesses*, of the most discreet and fit for business. So as the said *Knights* may have sufficient *Power* for themselves, and the *Community* of the *County* aforesaid, and the said *Citizens* and *Burgesses*, may have the same power, separately from them, for themselves, and the *Communities* of *Cities* and *Burghs*, then to *Do* in the *Premises* what shall be ordained by *Common*, or the *Common Council*. So that for defect of such *Power* the business aforesaid may not remain
E undone;

undone; And have there the Names of the Knights, Citifens, and Burgefles, and this Writ. Witnefs the King at Canturbury the third of October.

TheParlement
Prorogued be-
fore it met.
[7] Clauf. 23.
Ed. 1. n. 2.
Dorf. De Par-
limento Pro-
rogado.

This *Parlement* did not meet on the Sunday after St Martin, but was Prorogued before meeting, to the Sunday next before St Andrew the Apostle, which is the 30th of November. T^{est}. [7] *Rege apud Odmer 2 Die Novembris*. And all the Treating, Ordaining and Doing in this *Parlement* was only to Grant, and Consent to Raife such Supplies as the King Demanded, as will afterward appear.

A

The not finding any *Citifens* or *Burgesses*, Summended by former *Writs* directed to Sheriffs, nor particular *Writs* directed to the Mayors, Bayliffs, or Chief Officers of Cities and Burghs, before this, (except that in the 49th of Henry the Third) might be a sufficient proof, that these were the first Summons of *Citifens* or *Burgesses* to *Parlement*. But to clear this point, beyond all doubt and cavil, we must look back to the 18th of this King, and see what the Style of *Parlements* was, between that time, and this.

B

[8] Bundle of
Summons to
Parlement, 18
Ed. 1.

In this [8] Year, there is a *Bundle of Writs* directed to the Sheriffs of several, or most, of the Counties of England, and they are the Ancientest extant, or perhaps that ever were, (except as above) by which two or three Knights were directed to be chosen for each County; but no *Citifens* or *Burgesses*. And accordingly [9] Norfolk, Suffolk, Cambridge and Huntingdon-Shires, and Cumberland returned each of them three Knights with Manucaptors for their appearance, all other Counties but two each, &c.

C

[9] Return.
Parl. 18. E. 1.
Three Knights
returned for
some Counties,
18. Ed. 1. and
two for others

This *Parlement* gave the King a Fifteenth part of all their Moveable Goods, as appears by the [1] account upon the Great Roll in the 23d year of this King, in the two last Rolls of that Great Roll. The Title of Account, wherein also we have the Style of that *Parliament*, which runs thus.

D

[1] In officio
Pape apud
Westmonast.
The Account
Roll hereafter
mentioned.

Comptus Quinta-Decima Regi Anno Decimo Octavo per Archiepiscopos, Episcopos, Abbates, Priores, Comites, Barones, & omnes alios de Regno, de omnibus bonis suis mobilibus concessa, & per Diversos Collectores, in Diversis Comitatibus, Eodem Anno Decimo Octavo Assellæ, Collectæ, & Levatæ.

E

The Account of the Fifteenth, Granted to the King in his Eighteenth Year, by the Archbishops, Bishops, Abbats, Priors, Earls, Barons, and all others of the Kingdom, Assessed, Collected, and Levied by Divers Collectors in several Counties, in the same Eighteenth Year. This is the very same Style which was used in the Reigns of King John and Henry the Third, before the Commons or Community of Counties were Represented by Knights, chosen by them. And 'tis here further to be noted, that the two or three Knights, chosen for the Community of the County did Represent them, and * according to the form of the Writ, Consulted and Consented to a Fifteenth for them, which are here called the *Omnes alii de Regno*, and were Military Tenents in Capite of the Ordinary Rank, but of the same Order with the Knights.

F

* Ad consulendum & consentiendum pro & Communitate illa His que Comites, Barones & Milites

*

In

In the *Chequer* [2] Roll of the 19th of Edward the First. There is the *Form* of a Writ, to appoint *Taxors* and *Collectors* of this *Fifteenth*, in these Words. *Edwardus Dei Gratia, &c. Militibus, liberis hominibus, & toti Communitati Comitatum, &c. Salutem. Cum Archiepiscopi, Episcopi, Abbates, Priores, Comites, Barones & omnes alii de Regno nostro, nunc sicut alias nobis & progenitoribus nostris liberaliter concesserunt Quintam-Decimam de omnibus bonis suis Mobilibus, &c. Teste meipso apud Kings-Clipton 22 Die Septembris Anno Regni nostri decimo octavo. Edward by the Grace of God, &c. To the Knights, * Freemen, and the whole Community of Counties, (none named) &c. Greeting, Whereas the Archbishops, Bishops, Abbats, Priores, Earls, Barons, and all others of our Kingdom, now as at other times, to us and our Progenitors have freely Granted a Fifteenth part of all their Moveable Goods, &c. Witness our self at Kings-Clipton the 22d of September in the Eighteenth Year of our Reign. Here we find the same persons only Granted this Fifteenth, which were wont to Grant the same manner of Taxes in the times of his Progenitors, which illustrates what was said before.*

[2] In the Custody of the Kings Remembrancer. *Inter Communia de Terminis*, St. Mich. Rot. or n. 5.

* See my Glossary what these Freemen were.

The Cities and Burghs, or at least the City of London, this Year also had a *Fifteenth Taxed*, and Levied upon them, which notwithstanding it was demanded by the King, without their being Summoned to Parlemtent, by *Citizens* and *Burgesses* their Representatives, yet their compliance with the Kings demands, was called a Grant.

Citizens and Burgesses compliance with the Kings demands, called a Grant.

Georgius de Rokeſly, Walterus de Rokeſly Executor Testamenti ejusdem Georgii pro eo, [3] Henricus de Waleys, Robertus de Basings, Willielmus de Hereford, & idem Robertus de Basings Executor Testamenti ejusdem Willielmi pro eo, una cum Magistro Willielmo de Wimondham Clerico, Assessores & Collectores Quinta-Decime in Civitate London, & infra totum prædictum ejusdem Civitatis Regi concessæ. Anno Regni sui decimo octavo reddunt compotum de 2860 l. 13 s. 8 d. de eadem Quinta-Decima sicut continetur in Rotulo de particulis, quem iidem Assessores & Collectores liberaverunt in Thesaurario, &c. That is,

[3] In the same Account-Roll of the same great Roll, as above.

George de Rokeſly, Walter de Rokeſly Executor of the Testament of the same George for him, Henry de Waley's, Robert de Basings, William de Hereford, and the same Robert de Basings Executor of the Testament of the same William for him; together with Mr. William de Wimondham Cleric, Assessors, and Collectors of the *Fifteenth* * Granted to the King in the City of London, and within the whole Precinct of the same City in the Eighteenth year of his Reign, do give account of * 2860 l. 13 s. 8 d. of the same *Fifteenth* as it is contained in a Roll of Particulars delivered into the Treasury, &c.

* By the City upon the Kings demand, and sending to them.

* This was the Sum of the whole Fifteenth in London, 18 Ed. 1. A. D. 1290.

[4] Ibid. Many admitted to a Composition for their Taxes.

Many Compounded, or (as the Phrase was then) *fined* for this *Fifteenth*, as for Example. [4] *Abbas de Sancto Edmundo reddit Compotum de 666 l. 13 s. 4 d. De fine pro habenda acquietancia Quinta-Decime omnium Bonorum Suorum Temporalium & Bonorum Conventus sui & Villanorum suorum, & hominum totius Villa Sancti Edmundi, Salva Regis Quinta-Decima Bonorum omnium aliorum libere Tenentium ipsius Abbatis & Conventus prædictorum, sicut con-*

tinetur in Rotulo de finibus Diverſorum pro Quinta-Decima in Theſaurario liberavit per quatuor Tales & Quietus eſt. That is;

*St. Edmunds-
Bury.

The Abbat of St * Edmund makes his Account of 666 l. 13 s. 4 d. for a Fine (or Composition) to have his Discharge of the Fifteenth of all his Temporal Goods, and the Goods of his Convent, and his Villans, and the Men of the whole Town of St Edmund, saving the Kings Fifteenth of the Goods of all other free Tenents of the Abbat, and Convent aforeſaid, as 'tis contained in the Fine-Roll of divers perſons for this Fifteenth; he paid this Sum in Money by four Tallies, and is diſcharged.

It will not be Foreign to this matter, to take notice of the Collectors Accounts in an Instance or two, nor unpleaſant to the Reader.

Cambr.
Ibid.

Compotus Henrici de Laſcy, & Willielmi de Mortuo Mari Collectorum Quinta-Decima Regi Conceſſa, Anno Decimo Octavo in Comitatu Cantabridgie.

Idem reddunt Compotum de 3482 l. 16 s. 2. gr. De Quinta-Decima Bonorum Mobilium Episcoporum, Comitum, Baronum, & omnium aliorum in Comitatu prædicto, ſicut continetur in Rotulo de particulis quem liberaverunt in Theſaurario. Exceptis Bonis mobilibus Prioris & Fratrum Sancti Johannis Jeruſalem & Villanorum ſuorum, &c.

The Account of Henry de Laſcy, and William de Mortemer, Collectors of the Fifteenth, in the County of Cambridge, Granted to the King in the 18th Year of his Reign.

The Sum of a
Fifteenth in
Cambridge-
Shire, 18 Ed.
1. A. D. 1290.

The ſame make their Account of 3482 l. 16 s. 2 d. farthing, of the Fifteenth of the moveable Goods of the Biſhops, Earls, Barons, and all others in the ſaid County, as it is contained in a Roll of particulars which they delivered into the Treasury. Except the moveable Goods of the Prior and Brethren of Saint John of Jeruſalem, and many others who had fined, or compounded for them, as above, &c.

Norff.
Ibid. in Dorſo.

Compotus Johannis de Breton & Willielmi de Kerdeſton Collectorum Quinta-Decima Regi Conceſſa Anno Decimo Octavo in Comitatu Norff.

The Account of John Breton and William de Kerdeſton, Collectors of the Fifteenth in the County of Norff. Granted to the King in the Eighteenth Year of his Reign.

The Sum of a
Fifteenth in
Norff. 18 Ed.
1. A. D. 1290.

Idem reddunt compotum de 9782 l. 14 s. 6 d. de Quinta-Decima Bonorum mobilium, &c. The ſame Collectors give in their Account of 9782 l. 14 s. 4 d. of the moveable Goods, &c. as in Cambridge-Shire. Exceptis, the Goods of ſuch as had Compounded and were Diſcharged, &c.

[5] Cl. 22. E. 1.
m. 6. Dorſ.
De Militibus
eligendis, &
mittendis ad
conſilium.

In the Twenty Second Year of this King there iſſued this Summons or Writ.

Rex [5] Vicecomiti Northumbr. Salutem, Quia cum Comitibus, Baronibus, & Cæteris Magnatibus de Regno noſtro ſuper quibuſdam Negotiis

Negotiis arduis, nos & idem Regnum nostrum Contingentibus, in Crastino Sancti Martini proxime futuro apud Westmonasterium Colloquium habere Volumus & Tractatum, tibi precipimus, quod eligi facias Duos Milites, de Discretioribus & ad Laborandum potentioribus de Comitatu predicto & eos ad nos usque Westmonasterium venire facias: Ita quod sint ibi in Crastino predicto, cum plena potestate pro se & tota Communitate Comitatus predicti, ad Consulendum & Consentiendum pro se & Communitate illa, his quæ Comites, Barones & Proceres predicti concorditer Ordinaverint in Premissis: Et Ita quod pro defectu potestatis hujusmodi idem negotium infectum non remaneat, & habeas ibi hoc Breve. Teste Rege apud Westmonasterium 8 Die Octobris.

Consimiles Literæ Diriguntur Singulis Vicecomitibus Angliæ, T. ut supra.

B The King to the Sheriſſ of Northumberland, Greeting. Because we desire to Confer and Treat with the Earls, Barons, and the other Great Men of our Kingdom, upon certain difficult Busineſs, that concerns Us, and the same our Kingdom, at Westminster, on the Morrow of St Martin, or 12th of November, we Command thee; That thou doſt cause to be chosen out of the County aforesaid, and to come to Us to Westminster, two discreet Knights, and most fit for Busineſs, so as they be there on the Morrow aforesaid, with full Power for themselves and the whole Community of the County aforesaid, to Consult and Consent for themselves, and that whole Community, to those things, the Earls, Barons and Great or Noble Men aforesaid, shall have Unanimously Ordained in the Premisses. And so that for the defect of such Power, the same Busineſs may not remain undone; Have there this Writ. Witness the King at Westminster the Eight Day of October.

In the 22d of Edward the First, no Citizens or Burgesſes Summoned to Parliament:

D The like Letters or Writs were directed to every Sheriſſ in England. Witness, as above.

On the [6] next day following, (that is,) on the Ninth of October. The King directed other Writs (reciting in them much of this above) to every Sheriſſ to cause to be Elected two Knights more, to be added to the former, to come to him at the same time and place. *Ad audiendum, & faciendum, quod eis tunc ibidem plenius injungemus.* To hear and do, what he should there more fully enjoyn them. Teste Rege apud Westmonasterium nono Die Octobris. Here was no Citizens or Burgesſes Summoned by these Writs, and none but Knights, in Number Four, who with the Earls, Barons and Great Men, on the very Day of their Meeting, gave the King a Tenth of all their Goods, and the Writs or Commissions, whereby Taxors and Collectors of the same Tenth were assigned in every County, were dated the same Day, as is most evident from the Records following.

[6] Ibidem.

F Decima [7] Bonorum Temporalium, Regi Contessa in Anglia in Crastino Sancti Martini, Anno Regni Regis Edw. I. Viceſimo Secundo ſiniente, incipiente Viceſimo Tertio:

The same day the Parliament met, they Grant the King a Tenth.

[7] Rot. 23. E. 1. n. 72. in that Roll, penes remem. Regis.

A Tenth of Temporal Goods, Granted to the King in England, on the Morrow of St Martin, ending the Twenty Second Year of King

King Edward the First, beginning the Twenty Third, he begun his Reign November the Sixteenth, 1272.

[8] Ibid.

Taxatores & Collectores ejusdem Decime [8] assignantur in Singulis Comitatus Angliæ in hac forma.

The Taxors and Collectors of the same Tenth are assigned in every County in this Form.

[9] Ibid. & Pat. 22 Ed. 1. m. 2. in Cedula.

* i. e. their Armor, Plate of ordinary use, Jewels and wearing Apparel.

Rex [9] *Militibus, Libere Tenentibus & toti Communitati Comitatus Cambriae, Salutem, cum Comites, Barones, Milites, & omnes alii de Regno nostro in Subsidiū Guerra nobis nunc sicut alias Progenitoribus nostris Regibus Angliæ liberaliter fecerunt Decimam de omnibus Bonis suis Mobilibus, Exceptis * quæ in Quinta-Decima ultimo nobis Concessa in eodem Regno Excipiebantur nobis curialiter concesserint & gratanter. Nos ut Decima illa ad minus Dampnum & Gravamen Populi, &c. Assignavimus Dilectos & Fideles nostros Thomam de Newton & Robertum de Whiterigge. vel alterum ipsorum una cum quodam Clerico ad Dicendam Decimam assidendam, Taxandam, Levandam, & Colligendam, & ad Scaccarium nostrum Deferendam, & Solvendam: Unam medietatem citra festum Purificationis proxime futura, & alteram citra Festum Pentecostes, &c. Teste Rege apud Westminster 12 Die Novembr. Anno Regni sui 22.*

The King to the Knights, Free-Tenents, and the whole Community of the County of Cumberland, Greeting. Whereas the Earls, Barons, Knights, and all others of our Kingdom, have liberally done to us now toward the War, as heretofore to our Progenitors Kings of England. And have Courteously and Willingly or Gratefully Granted a Tenth of all their Moveable Goods, except those things which were excepted, in the last Fifteenth which was Granted unto us. We, that the Tenth may be paid with the least Damage and Grievance to the People, have assigned our Faithful and well-beloved Thomas de Newton, and Robert de Whiterigge or one of them, together with a certain Clerc, to Assess, Tax, Levy and Collect the said Tenth, and to bring it to, and pay it at our Exchequer, one Half before the Feast of the Purification, and the other Half before the Feast of Pentecost. Witness the King at Westminster, the 12th of November in the Twenty Second of this Reign.

[1] Mat. West. Anno Dom. 1294. fol. 421. n. 20.

In this very Twenty Second Year of King Edward the First, Philip King of France having then surprized and seized Gascony, after the Feast of Pentecost a [1] Parlement was assembled, to advise how to regain that Country, in which it was agreed to Recover it by Force and Arms. Toward which War the Clergy had Granted a Moiety, or Half part of the Value of their Benefices, and Goods for that Year, as may appear by the Kings Writ or Commission to the Abbat of Feversham in Kent, by which he was appointed Collector for the same in the Province of Canturbury.

[2] Inter Record. de Termino Trinitat. 22 Ed. 1. Rot. vel. n. 68. De Subsidio Regi a Clero Concesso.

Assignatio Collector. Medietatis, Regi a Clero Concessæ.

Edwardus Dei Gratia, &c. Dilecto sibi in Christo [2] Abbati de Feversham, Salutem. Cum Prelati & Totus Ulerus de Regno nostro
* Medie-

* Medietatem Beneficiorum & Bonorum Suorum nobis in Subsidiu nostrum de Anno presenti Liberaliter Concesserunt, & gratanter. Ita quod prima Tertia pars ejusdem medietatis in festo omnium Sanctorum proxime futuro, Secunda in Quindena Paschæ, Tertia in Quindena Nativitat. Sancti Johannis Baptiste proxime futur. nobis persolvantur, &c. Nos de vestra Fidelitate & Diligentia confidentes, assignavimus vos, ad Dictam Medietatem, &c. In Diocesi Cantuariensi Colligendam, &c. Teste meipso apud Westmonasterium 30 Septemb. Anno Regni nostri 22.

* This Grant was made on the Eve of St. Matthew, Septemb. 21. Coadunatis Clero & Populo. Mat. Westm. f. 422. n. 30. 40.

Here we have a *Moyety* given this Year of their Benefices, and Goods by the Clergy, and a *Tenth* by the Earls, Barons and Knights. for all others of the Kingdom; That is, all *Free-Tenents*, such as held in *Military Service*, and others in *Soccage*, which then were very few. Let us now see, how and what the *Cities, Burghs, and Kings Tenents* of his *Demeasns* gave, or paid by themselves, not being then reckoned, inter omnes alios de Regno, which granted a *Tenthpart* only.

These then were neither *Summoned*, or came to a *Common Council*, or *Parlement*, but were required and induced by the *Kings Commissioners*, or *Taxors* to pay a certain *Sum* charged upon or demanded of them. Which at this time was a *Sixth part* of all their *Moveable Goods*, towards the War. The *City of London* was first sent to, and that made an *Example* to all other *Cities, Burghs and Towns* of the *Kings Demeasns*, and their *Compliance* with the *Kings Demands* passed as, and under the *Name* of a *Grant*.

Citizens and Burgeffes, when not Summoned to Parliament. How they were Taxed.

Rex Dilectis & Fidelibus suis [3] Custodi, Vicecomitibus Aldermanis & Toti Communitati Civitatis sue London, Salutem. Cum vos in forma qua Nuper Nobis Quintam-Decimam Concesseratis, Septam partem Bonorum & Mobilium Vestrorum in Subsidiu Guerra nostra nobis Concesseritis liberaliter & libenter; nos ut illa Septa pars ad minus Dampnum & Gravamen Vestri & Singulorum Civitatis ejusdem Levetur & Colligatur providere Volentes, assignavimus, Johannem de Banquelle, Thomam de Romeyn, Hamonem Box, Willielmum de B-
tonia, & Gilbertum de Marchia una cum Dilecto Clerico nostro Magistro Willielmo de Wymundham, &c. And after the Example of London the King sent his Commissioners to Tax or Demand of his other *Demeasns* *Cities, and Towns*, a *Sixth part* through England.

[3] Inter Recordi de Anno 23 Ed. 1. n. vel Rot. 73 penes Remem. Regis. De Sexta parte Regi Concessa in London.

Rex Dilecto & Fideli suo Roberto de Ratford, Salutem, [4] Cum Cives & probi homines nostri London, Sextam partem Bonorum suorum Mobilium nobis in Subsidiu Guerra nostre Gratanter Concesserint, ut aliis qui sunt de nostris Villis Dominicis exemplum prebeant ad Consimile Subsidiu faciendum, Assignavimus vos ad petendam hujusmodi Sextam partem in Singulis Dominicis Civitatibus & aliis Villis nostris in Comitatibus Kancia, Suffex, Surry, & Suthampton Secundum Taxationem Decima jam nobis in Regno nostro Concessa, & Ideo vobis Mandamus, quod assumptis vobiscum Vicecomitibus Locorum, ad Singulas Dominicas Civitates, & alias Villas nostras personaliter accedatis, & homines earundarum Civitatum, & Villarum ad Concedendam & Prestandam nobis Predictam Sextam partem juxta Taxationem predictam, diligenter Ex parte nostra requiratis, & efficaciter inducatis, modis quibus videbitis

[4] Ibid. Eodem Anno & numero. De Diversis assignatis ad petendum Consimilem Sextam in Dominicis Villis Regis in Diversis Comitatibus.

* William Bishop of Bath and Wells then Lord Treasurer.

London an example to all Cities and Burghs to Grant a Sixth part of their Goods, &c.

videbitis expedire. Et quod inde feceritis, nobis aut Theſaurario & Baronibus noſtris de Scaccario ſine Dilatione conſtare faciatis. In cujus Rei Teſtimonium has literas noſtras fecimus Patentes. Teſte Venerabili Patre, &c, 21 Die Novembr. Anno 23. That is.*

The King to his well Beloved and Faithful Robert de Ratford, Greeting. Whereas our *Citiſens* and Good Men of London, have willingly Granted to us, toward maintaining our War a Sixth part of their Moveable Goods, that they might ſhew an Example to others of our Demeaſn Towns, to make the like Aid. We have aſſigned you to Demand a like Sixth part in every of our Demeaſn Cities, and other Towns in the Counties of Kent, Suffex, Surry and Southampton, according to the Taxation of the Tenth now Granted to us in our Kingdom; and therefore we Command you, that taking with you the Sheriffs of Places, ye perſonally go to every of our Demeaſn Cities, and other Towns, and diligently on our behalf require, and effectually induce the Men of the ſame Cities and Towns, by ſuch means as you think expedient, to give and Grant to us the ſaid Sixth part according to the Taxation aforeſaid, and what you ſhall do herein, you ſhall ſignifie to us, or our Treasuſer and Barons of the Exchequer, without delay. In Witneſs of which thing we have made theſe our Letters Patents. Witneſs the Venerable Father, &c. The 21ſt of November, the 23d Year.

[5] Ibid. Eodem Anno. Num. ſive Rot. 73.

Per [5] Conſimiles Literas aſſignantur infra Scripti ad petendam hujusmodi Septam partem in Singulis Dominicis Civitatibus, & aliis Villis Regiis, in Comitatibus Subſcriptis, viz.

Willielmus de Ormeſby in Comitatibus Norff. Suff. Cantabr. & Huntingdon.

Magiſter Petrus de Lek in Comitatibus Northampton, Leyceſter, Warwick, Roteland, Lincoln.

Johannes de Litegremes in Comitatibus Ebor. Northumberland, Cumbria, Weſtmerland, Lancaſtria.

Magiſter Johannes Lovel in Comitatibus Wilts, Somerſet, Dorſet, Devon. & Cornubiæ.

Johannes de Boſco in Comitatibus Nottingham, Derby, Salop. Staſford, Wigorn.

Radulphus de Broghton in Comitatibus Oxon, Berks, Bedf. Bucks. Glouceſter, Hereford. T. ut ſupra.

No Citiſens and Burgeſſes Summoned to Parlemt before the 23 of Edward the firſt.

By all theſe Records 'tis moſt clear, there were no *Citiſens*, *Burgeſſes* or *Tenents* of the Kings Demeaſns, Summoned to great Councils or Parlements untill the 23d of Edward the Firſt, and alſo how they were Taxed before that time.

The firſt Writ of their Summons, and the Prorogation of that Parlemt from the Sunday next after St Martin, (which was the firſt Day appointed for meeting,) to the Sunday next before St Andrew the

the *Apostle*, we have noted before. And I shall further observe, that the *Writ* directs they should have a *Power* to *Act* separately from the *Knights* of the *Counties*, and do what by *Common Councils* should be ordained. *Et dicti Cives & Burgenses Plenam & Sufficientem potestatem pro se, & Communitate Civitatum, & Burgorum, Divisim ab ipsis (i. e. Militibus) tunc ibidem habeant, ad faciendum tunc quod de Communi Concilio Ordinabitur in premissis*, and accordingly they made a different Grant, the *Earls*, *Barons* and *Knights*, who then sat, Treated, and Consulted all together, about Granting Taxes, Gave an *Eleventh* part of all their Moveable Goods; and the Good Men of his Demeasns Cities and Burghs Granted a *Seventh* part of all their Moveable Goods.

And according to the *Addition* made in the *Writ* of *Summons*, when the *Citizens* and *Burgesses* came first to *Parlement*, there was also an alteration made answerable to it, in the *Writ* or *Commission* for appointing *Taxors* and *Collectors*, for the *Levying* and *Collecting* of this *Eleventh* and *Seventh* part, in the several *Counties*, which is not to be found in these *Writs* or *Commissions* before this time. The Words of the *Writ* or *Commission* are these. [6] *Rex Militibus, Libere Tenentibus, & Toti Communitati Comitatus Roteland, Salutem, Cum Comes, Barones, Milites, & alii de Regno nostro in Subsidium Guerra nostre nunc sicut alias, vobis & progenitoribus nostris Regibus Anglia liberaliter fecerunt Undecimam de omnibus Bonis suis Mobilibus. Et * Cives, & Burgenses, & alii probi homines de Dominicis nostris Civitatibus & Burgis ejusdem Regis Septimam de omnibus Bonis suis Mobilibus, exceptis his quae in Decima ultimo nobis concessa excipiebantur, nobis Curialiter Concesserint & Gratanter, nos ut Undecima, & Septima praedictae, ad minus Dampnum & Gravamen, &c. Assignavimus Dilectos & Fideles nostros Rob. de Flixthorp & Johannem de Wakerley, &c. Ad Dictas Undecimam & Septimam in Comitatu praedicto Assidendas, Taxandas, Levandas, & Colligendas, &c. Teste Rege apud Westmonasterium * Quarto Die Decembris.*

According to the *Tenor* of the *Writ* of *Summons*, we find by this *Commission*, that the *Citizens* and *Burgesses* were in this *Parlement*, and that they were different Persons from the *Alii de Regno*, mentioned after the *Earls*, *Barons* and *Knights*, for they gave the *Eleventh* part, and these the *Seventh*, somewhat more than a *Third* beyond what they gave; And it became a settled Rule afterward for the *Citizens*, *Burgesses* and *Tenants* in antient *Demeasns* to give a *Third* part more, or thereabouts of their *Personal Estates*, than the *Earls*, *Barons* and *Knights* did Grant.

The *Summons* to this *Parlement* directed to the *Archbishop* of *Canturbury* is very observable, and may furnish us with the Reason why the King Summoned the *Citizens* and *Burgesses* to it.

Rex Venerabili in Christo [7] *Patri R. Eadem Gratia Cantuariensi Archiepiscopo, totius Angliae Primati, Salutem, Sicut Lex justissima provida circumspectione Sacrorum Principum stabilita hortatur & statuit, ut quod omnes tangit, ab omnibus approbetur, sic & innuit evidenter ut Communibus periculis per remedia provisum Communiter obvietur.*

[6] Pat. 24. Ed. 1. p. 1. m. 22. De undecima & septima Regi Concess. Levand. & Colligend.

* These words were not in former Commissions, for appointing Taxors and Collectors. * This Parliament met by Prorogation, about the 30th of November.

Citizens and Burgesses, different persons from the Alii de Regno, &c.

They gave a 3d part more than the Earls, &c.

[7] Cl. 23. Ed. 1. m. 3. Dors. De Parlamento Tenendo apud Westmonasterium.

Sane satis nostis, & jam est ut credimus per universa mundi Climata Divulgatum, qualiter Rex Franciæ de Terra nostra Vasconia nos fraudulenter & cautelose decepit eam nobis nequiter Detinendo. Nunc vero prædictis fraude & nequitia non contentus, ad Expugnationem Regni nostri Classe maxima, & Bellatorum copiosa multitudo congregatis, cum quibus Regnum nostrum, & Regni ejusdem incolas hostiliter jam invasit, Linguam Anglicanam si conceptæ iniquitatis proposito detestabili potestas correspondeat (quod Deus avertat) omnino de Terra delere proponit. Quia igitur prævisa jacula minus lædunt, & res vestra Maxime sicut Cæterorum Regni ejusdem concivium agitur in hac parte. Vobis mandamus in Fide & Dilectione quibus nobis tenemini, firmiter injungentes quod Die Dominica proxime post festum Sancti Martini in hyeme proxime futurum apud Westminster personaliter intersitis. Præmunientes Priorem & Capitulum Ecclesiæ vestræ, Archidiaconum totumque Clerum vestræ Dioceseos. Facientes quod iidem Prior & Archidiaconus in propriis personis suis, & Dictum Capitulum per unum, idemque Clerus per duos Procuratores idoneos, plenam & sufficientem potestatem ab ipsis Capitulo & Clero habentes, una vobiscum intersint modis omnibus. Tunc ibidem ad Tractandum, Ordinandum & Faciendum, nobiscum, & cum cæteris Prælatiis & Proceribus & aliis incolis Regni nostri, qualiter hujusmodi periculis & excogitatis malitiis obviandum. Teste Rege apud Wengeham Tricesimo Die Septembris.

The King to the Venerable Father in Christ, R. by the same Grace, Archbishop of Canturbury, &c. Greeting, As the most just Law established by Princes doth appoint, *That which concerns all should be approved by all.* So it evidently shews, that dangers, common to all, should be obviated by Remedies provided by all. You understand sufficiently, and as we believe 'tis now *Divulged* through the whole World, how the *King of France* fraudulently surprized Gascony, and yet detains it from us. But now not content with that, he hath provided a great *Navy* and *Army*, with which he hath ** Invaded* our Kingdom, and the Inhabitants thereof, and *intends to destroy* the *English Nation* and *Language*, if his Power were answerable to his detestable purpose, (which God avert.) Because therefore, foreseen attempts do less hurt us; and not only you chiefly, but the rest of the Inhabitants of the Kingdom are also concerned in this matter, we *Command*, firmly enjoyning you in the *Faith* and *Love* by which you are bound to us, that on the Sunday next after the Feast of *S^t Martin*, next coming, you be at *Westminster*, and that you warn the *Prior* and *Chapter* of your Church, the *Arch-Deacon* and *whole Clergy* of your *Diocess*, and cause the *Prior* and *Arch-Deacon* in their own persons, and the *Chapter* by *one*, and the *Clergy* by *two*, fit ** Procurators* or *Proxies*, having sufficient *Power* from the said *Chapter* and *Clergy* to be present with you, then and there to *Treat*, *Ordain*, and *appoint with us*, and the rest of the *Prelates*, *Great Men*, and other *Inhabitants* of the Kingdom, how to prevent these Dangers, and designed Mischiefs. Witness the King at *Wengeham*, the 30th of *September*.

Why the Citizens and Burghesses first Summoned to Parlement.

* About the 8th of September this year, the French landed at Dover, burnt a great part of the Town, and killed an old Monk. Walsingham. fol. 64. n. 10.

* These are now called Clercs of the Convocation.

The first Summons of the Common Clergy to Parlement.

This is the *first Summons* I find directed to the *Archbishop*, by which he was ordered to cause the *Body* of the *Clergy* of his *Diocess*, and the *Chapter* to come to *Parlement* with him, by their *Procurators* or *Representatives*, and the same *Reason* given in this *Writ*, that brought

brought *them* thither, brought also the *Citizens* and *Burgesses*, as may appear by the *Writ* before recited, directed to every Sheriff of England for the first choice of them, and dated the third Day of October, next following after the date of this to the Archbishop.

A The Treating, Ordaining, and Appointing Remedies to prevent the imminent Dangers to the Kingdom; was only to raise Money, to prosecute the War, and defend the Nation against the King of France; and towards that, the Clergy gave a Tenth; the Earls, Barons and Knights, gave an Eleventh; and the Demeasns Cities, Burghs and Kings Tenents of his Demeasns, gave a Seventh part of all their Moveable Goods. There were no Laws made, or other Matters dispatched in this Parlement, as was hinted before.

B Having thus Proved, the Time when, and the Cause why, Citizens, Burgesses, and the Tenents of the Kings Demeasns, were at first Summoned to Parlement, we shall proceed to discover what Cities and Burghs sent their Representatives, or Citizens and Burgesses, upon such Summons. The Answer to this is very short, that they were only the *Dominici Civitates*, and *Burgi Regis*, the Kings Demeasns Cities and Burghs, such as had Charters from the King, and paid a Fee-Farm Rent in Lieu of the Customs, and other Advantages and Royalties that belonged to the Crown, and were originally taken and gathered by the Kings Collectors and Officers, whether Bayliffs, Port-Reves, Senescals, or Stewards, or by what other Names they were called. But afterward Collected and Received by Officers, chosen by the Cities and Burghs, according to Licence, Granted by the Kings Charter, to the use of such Cities and Burghs, or perhaps, sometimes by Permission only.

What Cities and Burghs sent Citizens and Burgesses to Parlement.

Customs in Cities and Burghs, originally gathered by the Kings Bayliffs, &c.

D This doth abundantly appear by the Account given of great Yarmouth, in the [8] Appendix, where after the Description of that and Gorleston, taken out of Domesday Book, it is said thus. *Et Sciendum, quod Progenitores Domini Regis tenuerunt prædictum Burgum in manibus suis propriis, percipiendo omnia proficua excentia de portu prædicto, usque ad Tempus Regis Johannis, qui [9] concessit Villam prædictam Burgensibus Villæ prædictæ ad feodi firmam, Reddendo sibi & hæredibus suis Quinquaginta & Quinque libras per Annum, ad quod Solvendum, nihil aliud habent nisi consuetudinem & alia proficua provenientia de portu prædicto, nec capiant aliquas consuetudines de rebus Venditis vel Emptis in Mercato super terram, nullo Tempore Anni.* That is; And it is to be understood, that the Progenitors of the Lord the King held the foresaid Burgh (that is, Yarmouth) in their own hands, untill the time of King John, who Granted it in Fee-Farm to the Burgesses, paying to him and his Heirs Fifty Five Pounds by the Year, for the Payment whereof, they had nothing but the Customs, and other Profits of the Port, neither might they at any time of the Year take any Customs of things Bought and Sold in the Mercate upon the Land.

[8] N. 1. A.

[9] Append. N. 2.

Not long after King John had Granted his Charter, there happened a Controversy, between Gorleston and South-Yarmouth in Luthingland, both on the other side of the River, and Great Yarmouth, [1] about certain Customs and Privileges in the 12th of Henry the Third,

[1] Append. N. 1. a.

[2] Ibid.
 [3] Append.
 N. 1. B.
 Tarmouth holden of the King in Fee-farm. Why called a Free Burgh.

* Commons Journal, 1 Maii 1628.

A great mistake, That Towns that paid Tenths, and sent Representatives to Parliament, were Burghs.

Towns in Ancient Demeasns that were no Burghs sent Representatives.

[4] Cl. 34. Ed. 1. M. 15. Dorf. in Cedula. Append. n. 13.

[5] Append. n. 12. 13.
 [6] Append. n. 13.

[7] Ibid.
 * Note, The Citizens, Burghesses, and Tenants in Ancient Demeasns, were no part of the Community of the Kingdom, for they gave a 20th part for, and by themselves, and Treated apart.

† The reason of this Clause at this time was, for that the Aid for making the Prince Knight, was to have been laid upon Land; i. e. so much upon every Knights Fee; and here it was Taxed upon Goods, whereas it was due upon Knights Fees.

and [2] again, in the 34th of Edward the First, which was determined in the Exchequer by the Lord Treasurer, the Chancellor of England, the Justices of both Benches, and others of the King's Counsel. By which [3] Record it is evident, That Great Tarmouth was holden of the King in Fee-farm, was styled, *Villa Regia*, the King's Town, and *Liber Burghus*, a Free Burgh, and enjoyed such Liberties as belonged to a Free Burgh, only by, and in respect of the Charter.

It was, and is the General Opinion of * Lawyers, That such Towns as sent Burghesses to Parliament, though but very seldom, and paid Tenths when they were granted in Parliament, were Burghs, notwithstanding they had not, nor perhaps now have any Charter, Fair, Market, Franchise, or other Liberties which should constitute, and make them Burghs. But this is a mighty Mistake: For there were anciently, and are yet many Towns that sent their Representatives to Parliament, which were not Burghs, but only Towns of Ancient Demeasns, and these (in the Granting of Taxes especially) consulted, and gave their consent with the Citizens and Burghesses, who in All Taxes upon Goods and Personal Estates did usually give and pay about one Third or Fourth more than the other Towns which were neither Cities or Burghs, or Ancient Demeasns, before the Tenths and Fifteenths were constantly and regularly letted.

This will be fully Evinc'd by the following Records. Edward the First intending to Knight his Son, [4] summoned the Archbishops, Bishops, Abbats, Priors, Earls, Barons, and other Great Men to be before him and his Council, on the Morrow after Holy Trinity, to Treat of, and Grant an Aid which was due upon that occasion. He also sent to all the Sheriffs of England, to [5] cause to come before him and his Council on the same day, two Knights of every County, and of every City two Citizens, and of every Burgh two or one Burghesses, as the Burgh was greater or lesser, to Treat, Ordain, and Consent, &c.

All which Orders of Men being [6] Assembled before the King's Council, and it having been shewed unto them by the same Council, on behalf of the King, That there was an Aid due to him in the foresaid case, (that is, for making his Son Knight :) And also, That there were manifold Expences, and many other Burthens incumbent on the King in restraining the Rebellion and Malice of Robert de Brus, his Traytor, and his Adherents in Scotland, who had presumed to make War against him.

The same [7] Prelates, Earls and Barons, and other Great Men, and also the Knights of Shires, Treating deliberately upon this Matter, and considering there was an Aid due as aforesaid, and that many Burthens were incumbent upon the King by reason of the War aforesaid, at length unanimously Granted to the King for themselves and * whole Community of the Kingdom, a Thirtieth Part of all their Temporal Moveable Goods, which they should be possessed of at the Feast of St. Michael next coming, for a Competent Aid toward the Knighthood of his Son, and also for an Aid toward his Expences which he was to be at in the War aforesaid. But so, as this Grant should not † prejudice themselves, nor their Successors, and Heirs in future Times, nor be made an Example in the like case. And that

in

in *Taxing* the Goods aforesaid, all things were to be *Excepted*, as in the *Taxation* of the *Fifteenth* granted to the King by the *Communitie* of the Kingdom, in the *Eighteenth* Year of his Reign, for the Banishment of the Jews.

Also [8] the *Citizens* and *Burgesses* of *Cities* and *Burghs*, and others of the King's *Demeasns* *Assembling* together, and *Treating* about the Premises, considering the *Burthens* incumbent upon the King, as was before mentioned, unanimously Granted unto him for the Causes aforesaid, a *Twentieth Part* of their Moveable Goods, and to have them as aforesaid.

Who, and what the *Cœteri*, the *Residue*, or *Others* of the King's *Demeasns* were, is plainly discovered in another Record about the same Matter.

B It is to be [9] *remembred*, That on the *Morrow* of Holy Trinity last past, the *Prelates*, and the other *Great Men* of the Kingdom, for themselves and the whole *Community* of the Kingdom, Granted to the Lord the King, for themselves and the whole *Community* of the same Kingdom, a *Thirtieth Part* of all their Temporal Goods, without *Cities*, *Burghs*, and the King's *Demeasns*. And the *Citizens*, *Burgesses*, and *Tenents* of the foresaid *Demeasns*, Granted a *Twentieth Part* of their Goods, as well toward the *Knighthood* of Edward the King's Son, as toward the *Defence* of Scotland against Robert Brus, and his *Complices*, the King's *Enemies*, and the Form of the foresaid Grant is more fully noted in the *Memorials* of *Trinity-Term* last past.

D By this Record it is very plain, That the *Prelates*, *Earls*, *Barons*, and *Knights* of *Shires* *Consulted* together and *Treated* about this 30th Part which they granted for themselves and the whole *Community* of the Kingdom; as also that the *Citizens*, *Burgesses*, and *Tenents* of the Kings *Demeasns* *Treated* and *Consulted* by themselves apart, and Granted a 20th Part of their Goods, which was a Third Part more than the *Lords* and *Knights* gave. And that *Tenents* of the King's *Demeasns* were *Members* of *Parlement*.

The King's *Commission*, and *Assignment* of *Commissioners* to *Levy*, and *Coll&* the 20th, and 15th Granted in the First of Edward the Second, proves the same thing. Rex [1] *Militibus, Liberis Homini-*
bus & Toti Communitati Comitatus Middlesex tam infra Libertates
quam extra, Salutem. Cum Comites, Barones, Milites, Liberi Homi-
nes, ac Communitates Comitatum Regni nostri, Vicesimam omnium
Bonorum suorum Mobilium; Civesque & Burgenses, ac Communitates
omnium Civitatem & Burgorum ejusdem Regni, necnon Tenentes de
Antiquis Dominicis Coronæ nostræ Quintam-Decimam Bonorum suo-
rum Mobilium Curialiter concesserint & Gratanter, nos, ut Vicesima, &c.

F That is, the King to the *Knights*, *Freemen*, and whole *Community* of the County of *Middlesex*, as well within *Liberties* as without, *Greeting*. Whereas the *Earls*, *Barons*, *Knights* and *Freemen*, and the *Communities* of *Counties* of our Kingdom *Courtly*, or *courteously* and *gratefully* Granted us a 20th Part of their Moveable Goods; and the *Citizens*, *Burgesses* and *Communities* of *Cities* and *Burghs* of the same Kingdom, and also the *Tenents* of the Ancient *Demeasns* of our Crown a 15th Part of their Moveable Goods, We, that the said 20th Part, &c.

The Prelates, Earls, Barons and Knights Treated together. The Citizens, Burgesses, and Tenents in Ancient Demeasns consulted together, and apart from them.

[1] Pat. 1 E.2. p. 1. M. 7.

Tenents in ancient Demeasns sometime omitted in Commissions. [2] Inter Recorda de Term. Sanct. Trin. Anno 12. Ed. 2. penes Remem. Regis in Scaccario. Commissio ad Levand. & Colligend. 12am.

Some time afterward, the Tenents in ancient Demeasns were left out of the Preambles of the Commissions, and not mentioned as Grantors of Taxes, with the Citisens and Burgeses in the 12th of Edward the Second, in some Commissions they were retained, in others omitted. *Edwardus Dei Gratia Rex Anglia, &c. [2] Fidelibus suis Ballivis & Communitatibus Civitatum & Burgorum in Comitatu Lincoln, Salutem. Cum Cives & Burgenses Civitatum & Burgorum Comitatum Regni nostri in Parlamento nostro apud Eborum a Die Pasche proximo praterito in unum mensem convocato pro expeditione Guerra nostre Scotie Duodecimam omnium Bonorum suorum Mobilium nobis Concesserunt, &c. Nos, ut, &c. Teste meipso, apud Eborum 30 Die Maii Anno Regni nostri 12. Per ipsum Regem.*

The Tenents of the Kings ancient Demeasns were not mentioned as Grantors in this Commission.

Yet in this following Commission about Levying the same Tax, they are mentioned as Grantors of it, with the Citisens and Burgeses.

Inter Commissiones & Literas Patentes de Terminò Sancte Trinitatis Anno 12 R. Rs. Edwardi Secundi penes Remem. Regis in Scaccario.

Oxon. Berks, Bed. Bucks de Levatione 12 & 18 super vidend. & festinand. * Note the Earls and Barons and Knights of the Shire, granted this 18th, and therefore the Earls and Barons were part of the Community of the County, which was the Tenents in Capite.

*Rex omnibus ad quos presentes literæ pervenerint, Salutem. Cum per Literas nostras Patentes Assignaverimus quosdam Dilectos & Fideles nostros ad Decimam Octavam nobis per * Communitates Comitatum Regni nostri in Parlamento nostro apud Ebor. a Die Pasche proxime praterito in unum mensem Convocato. Et Duodecimam nobis per Cives, Burgenses, & Tenentes de Dominiciis nostris in eodem Parlamento concessas, &c.*

But afterwards they were frequently omitted, and after the Eighth of Edward the Third, when the Establishment of Taxes upon Personal Estates became certain, and the way and manner of Levying them was changed, the Tenents in ancient Demeasns are no longer mentioned in the Commissions of the Taxors and Collectors, as Grantors of those Taxes.

At what time the Tenents in ancient Demeasns are no longer mentioned as Grantors of Taxes in the Taxors Commissions. The ancient manner of Levying Taxes.

Before this time there were two chief Taxors appointed by the King in every County, who appointed Twelve in every Hundred, to raise every Mans Personal Estate according to the true value, and then to Levy a Thirtieth, or an Eighteenth part of it, as it was Granted by the Earls, Barons and Knights of Shires in Parliament. They also appointed such and as many as they thought fit in every City, Burgh and Town of the Kings Demeasns, to inquire into every Mans Personal Estate in those places, and find out the true value of it, and then to Levy a Twentieth, or Twelfth part of it, as it had been Granted by the Citisens, Burgeses and Tenents of the Kings ancient Demeasns in Parliament. And that they might Tax and Value every Mans Estate truly and really, the Taxors were Sworn not to do otherwise for Love, Hatred, Favor, Gift or Promise. See the [3] Form of Taxing and Levying the 30th and 20th part Granted to King Edward

the First, made by him and his Council in the 34th year of his Reign, as it was delivered to the Chief Taxors of every County with the Oath. See the like [4] Form in the 12th of Edward the Second; for *Taxing* and *Levy*ing an 18th Granted by the Earls, Barons, &c. and a 12th by the Citizens, Burgeses, and Tenents of Ancient Demeasns.

[4] Inter Record. de Term. Trinit. 12 Ed.2. penes Remem.Regis.

- A In the Eighth of Edward the Third, upon [5] Complaint of the Barons, Knights, Citizens and Burgeses to the King in Parlement, That the Taxors and Collectors for Bribes spared some Men, and by Colour of their Office extorted from others more than they ought to pay, and applyed it to their own use; with Request to him, That they might pay toward the 15th and 10th then Granted, as they had done to the last 10th and 15th. There were sent Commissioners into every County in England, to Agree and Compound with the Inhabitants of every Town that was to pay a Fifteenth; And also with
- B the Communities of Cities and Burghs, and Men of the Towns of Ancient Demeasns, which paid a Tenth; *Ad Tractandum & Concordandum cum Communitatibus Civitatum & Burgozum, ac hominibus Villarum, & Dominicorum antiquorum, qui hujusmodi Decimam & Quintam-Decimam solvere tenentur*, for the Sums they were to pay; which Sum was fixed upon the particular Towns, Cities and Burghs for the future, and Collected, and Rated most commonly by the Inhabitants (I suppose) amongst themselves; the chief
- C Collectors and Taxors in every County were reserved to be Taxed by the Treasurer and Barons of the Exchequer as before.

[5] Pat. 8 E.3. p. 2. M. 16. The occasion and manner of the first settling of Fifteenths and Tenth.

- I could never find the Roll, or any Book of this Establishment of this Eighth year of King Edward the Third. But in a [6] Book of Fifteenths and Tenth in the Third year of King Henry the Fifth, where the particular Sums of every ordinary Town, and of every City, Burgh, and * Town of Ancient Demeasns in all Counties in Eng-
- D land are noted, there is often Reference to the Particulars of such a Roll in that Eighth year. After which time, when Tenth and Fifteenths were reduced to a certainty, the Parlement for the most part Granted Taxes of those Denominations, half a Tenth, and Fifteenth, a whole Tenth, and Fifteenth, Two Tenth, and Two Fifteenths, &c. according to the Exigency of the King's Affairs.

[6] With the Kings Remembrancer in the Exchequer.

* Every Town there that paid a Tenth, and was neither City nor Burgh, was Ancient Demeasns.

- E There hath been often mention made of the King's Demeasns Cities and Burghs, as well as of his Tenents of Ancient Demeasns, in this Treatise. And it will much tend to the understanding of it, and of ancient Records and History where they are mentioned, to know what they were. And if they be duly considered, they are not much unlike one another, having their Names from the same thing, that is, from holding of the King by Fee-farm.

What the Kings Demeasns Cities and Burghs were.

- F For those Town and Lands which are found in *Domesday-Books* under the Title of *Terra Regis*, were then and afterwards kept in his Hands, and managed by *Prepositi*, or *Bayliffs*, (as were most of the Towns and Lands of Bishops, Abbats, Priors, Earls, Barons, and other Great Men) and called his, and their Demeasns; which in process of time were let to Farm to Tenents for a considerable part of their true value, an half part, third or fourth at least, and this Rent was called a Fee-Farm-Rent, the Tenents esteeming what these

The Original of Fee-Farms.

Estates were above the Rent, or in respect of the Tenure, to be to them, *ut*, or *tantum de feodo*, as if they were holden in fee, paying their Rent, and Tallages.

Of the same condition were Cities and Burghs; at first they were kept in the Kings Hands, and the Customs and Profits, that arose from Trade, gathered by his Bayliffs and Officers, which afterward were let out in Fee-Farm, to the Communities of Cities and Burghs, which commonly were made such, by the same Charters by which the Customs in kind, or the true value of them, as then Collected, were changed into Fee-Farm Rents, and the Kings Officers, or others in Lieu of them, were made Officers as well to the Cities and Burghs, as to himself. This is clearly apparent from the Narrative of great *Yarmouth*, in the Appendix N. 1. A. N. 1. B. and from the Charter N. 2, as also from the Second Charter of *Donewic*, N. 3. B. and from others. And may further be confirmed by the following Record.

[7] Adventus Vicecom. Anno 5 Ed. 3. finiente, incipiente 6. in Crastino Sancti Mich. apud Remem. Thefaura. in Scaccario.

Amerciamenta [7] *Hominum & Burgensium Firmariorum Diversarum Villatarum* ad Feodi Firmam de Rege tenentium qui non venerunt ad Scaccarium ad faciendum Proffrum de firmis suis in Crastino Sancti Michaelis Anno Regni Regis Edwardi Tertii post Conquestum VI incipiente, V finiente.

Northumberland.	{ De hominibus Villæ de Bamburgh quia non venerunt ad Scaccarium ad faciendum Proffrum suum ad Diem prædictum. — }	V Merc.
Bedesford.	{ De Hominibus Villæ Bedesford pro eodem — }	V Merc.
Essex.	{ De Hominibus Villæ de Colchestre pro eodem — }	V Merc.
Dorset.	{ De Hominibus Villæ de Brudport pro eodem — }	V Merc.

Et Memorandum quod hujusmodi Firmarii, & alii Vicecomites & Ballivi consimili modo amerciati sunt pro non Adventu suo ad Proffrum suum Tempore Regis Edwardi filii Regis Henrici, sicut continetur in Memorandis Anni XVIII ejusdem inter Communia de Terminis Sancti Michaelis.

The Amerciaments of the Men and Burgeses, Farmers of divers Towns, holden of the King in Fee-Farm, who came not to the Exchequer or Scaccar, to make the proffer, (i. e. the * beginning of their Accounts) on the morrow of St Michael in the Year of the Reign of King Edward the Third, after the Conquest beginning the Sixth, ending the Fifth.

* At this time they began their Accounts for that half Year, and paid a small Sum in part of their Rent, which was called their proffer.

Northumberland.	{ Of the Men of the Town of Bamburgh, because they came not to the Scaccar to maketheir proffer at the Day aforesaid. — }	Five Marks.
Bedford.	{ Of the Men of the Town of Bedford for the same. — }	Five Marks.
Essex.	{ Of the Men of the Town of Colchester for the same. — }	Five Marks.
Dorset.	{ Of the Men of the Town of Brudport for the same. — }	Five Marks.

A It cannot be denied, that many Towns which are now *Parlement Burghs* were the *ancient Demeasns* of the *Crown*, and that the Lands belonging to them were holden in *Fee-Farm*. But then it must be considered, that the Towns and Lands so holden, were holden by particular Men, by *Grant* from the *Crown*, and as *Tenents* to the *Manner*, where the Lands lay, or to some other *Manner*, at some distance from them, and therefore for this reason, they could not be called, *Civitates & Burgi Dominici Regis*. The Kings *Demeasn Cities* and *Burghs*, but must be so called, by reason of the *Fee-Farm* they paid as *Cities* and *Burghs*, as *Communities*, *Corporations* and *Bodies Politique*, constituted by the Kings Charters, with *Liberty* of free *Trading*, from which Trade, or from Tolls and Customs thereby happening, the *Fee-Farms* of such *Communities* arose, and from hence the *Burgesse*s of such places, as *Burgesse*s were called the Kings *Farmers*, or *Tenents* in *Fee-Farm*.

Cities and Burghs why called Demeasn Cities and Burghs.

B Having seen, what the *Civitates & Burgi Dominici Regis*, the Kings *Demeasn Cities* and *Burghs* were, we shall next shew what, and how many of the present *Parlement Burghs* were *ancient Demeasns*. And in doing this, I will follow the direction of an ancient [8] Writ, to the Treasurer and Barons of the Exchequer, in 48th of *Edward* the Third, when the Men of the *Town* of *London* in the County of *Roteland*, complained to the King, that notwithstanding it was neither *Burgh* nor *antient Demeasn* of the *Crown*, yet it was *Taxed* a *Tenth*, whereas they should have been *Taxed* only a *Fifteenth*, in this case the King Commands the *Treasurer* and *Barons* of the *Exchequer*, that if it did appear by his *Book* called *Domesday*, or by other *Rolls* and *Memorials* of the *Exchequer*, or any other competent way, that it was neither *Burgh* nor *antient Demeasn*, they should accept a *Fifteenth* and discharge them of the *Tenth*, &c. *Vobis mandamus quod si per Librum nostrum qui vocatur Domesday, vel per alios Rotulos & Memoranda Scaccarii sive alio modo competenti dictam Villam Burgum vel de Antiquo Dominico Corona nostra non esse invenire contigerit, &c.*

[8] Old Register, fol. 181. B. f. 182. A.

E From this Book therefore of *Domesday*, and other *Records* it will manifestly appear, which of the present *Burghs* were *ancient Demeasns*.

F In *Berk-Shire* *New-Windsor*, and *Reding* in *Buckingham-Shire*, *Wicomb*, *Wendover*, *Alisbury* then no *Burghs*. In *Devon-Shire*, *Barnstable*, *Plimpton*, *Tavistoke*, *Asb-Burton*, *Tiverton*, the four last then no *Burghs*. *Dorset-Shire*, *Melcomb* then no *Burgh*. *Essex*, *Maldon*. *Glocester-Shire*, *Tewkesbury*, *Cirencester*, the last then no *Burgh*. *Hereford-Shire*, *Lemster* then no *Burgh*. *Huntington-Shire*, *Huntington* 3 *Henry Quinti*. *Lincoln-Shire*, *Grantham*, *Grimesby*, then the last no *Burgh*. *Norfolk*, *City of Norwich*, *Great Yarmouth*, *Thetford*. *Oxford-Shire*, *Woodstooke*, but then no *Burgh*. *Sommerfet-Shire*, *Ilchester*, *Milborne*. *Ham-Shire*, *Andover*. *Stafford-Shire*, *Tamworth*. *Suffolk*, *Ipswich*. *Surrey*, *Guildford*. *Wilt-Shire*, *Wilton*, *Westbury*, *Caln*, *Chepeham*, now *Chippenham*, *Cricklade*, *Bedwin*, then the last *Westbury* and *Chepeham* no *Burghs*. *Tork-Shire*, *Knaresburg*, *Malton*, *Threske*, *Alvertune*, then no *Burghs*. All these Towns are

How many of the present Burghs, were only Towns in ancient Demeasn.

* Domesd. f.
143. B. Col. 2.

[9] Cart. 5.
Johan. n. 210.

[1] Claus. 33.
Henry the 3d
m. 14.

[2] The time
of the making
of Domesday
Book which
see in Cornwall.

[3] Domesd. in
Cornwal, sub
Tit. Terræ
Episcop. Ex-
cestren.

[4] Ibid. Sub.
Tit. Terræ
Comit. Morit-
on. f. 121. B.
Col. 1.

[5] Ibid. f. 120.
B. Col. 2.

[6] Ibid. f. 105.
B. Col. 2.

to be found under the Title of *Terra Regis*, the Kings Land in *Domesday* Books, in the several Counties, except *Wicomb*, which is to be found in *Buckingham-Shire*, under the Title of *Terra Episcopi Wintoniensis*, and was allotted to the *Monks* of *Winchester* for their Diet, both before and after the Conquest. *Hoc * Manerium* (i. e. *Wicomb*.) *fuit & est ad victum Monachorum Wintoniensium*. But how I cannot say, this Town afterwards came into the Kings Hands, and was the Demeasn of the Crown. For in the [9] Fifth of his Reign King *John* Granted it in *Fee-Farm*, at the Rent of 20 l. per Annum, and the Service of one Knights Fee, to *Alan Bassset*, and King *Henry* the Third, in the 33d year of his Reign, when he Taxed his Demeasns at the request of *Philip Bassset* his Son, directed his Writ to the Sheriff of *Buckingham-Shire* to impose a reasonable *Tallage* upon the Tenents of *Philip* in *Wicomb*, as having been once the Demeasn of his Progenitors as appears by the Writ it self. [1] *Quia Rex Talliari facit Dominica sua Mandatum est Vicecomiti Bucks, quod habere faciat Philippo Bassset Rationabile Tallagium de Hominibus suis, de eo Tenentibus in Manerio de Wycumb, quod aliquando fuit Dominicum Prædecessorum Regis, Regum Anglia. Teste Rege apud Westminster Vicefimo Octavo Die Decemb.*

In *Cornwal* at the [2] time of the Survey, none of the now *Burghs* were placed under the Title of *Terra Regis*, unless that which was then called *Henlistone*, and described as an ordinary Town, be now *Helston*, nor had any of them at the time aforesaid, the Title of *Burghs*, [3] *Ecclesia Sancti Germani*, that Manner or Parish consisted of Twenty four *Hides*, whereof the *Bishop* of *Excester* had Twelve, and the *Canons* of the place had Twelve, what belonged to the *Bishop* was valued at VIII l. by the Year, what belonged to the *Canons* was valued at an C. Shillings. *In hoc Manerio est Mercatum in Die Dominico sed ad nichilum redigitur pro Mercato Comitis Moritonii quod ibi est proximum*, in this Manner is a *Mercate* on the Lords Day, but 'tis reduced to nothing by reason of the *Mercate* of the Earl of *Moreton*, that is very near.

The Earl of *Moreton* [4] holds *Liscarrèt*, there described as an ordinary Town, the same holds *Fawintone*, there described as an ordinary Town, Parish or Village, the same holds *Dunhevet* (now *Lanceston*) *ibi Castrum Comitum*, there is the Earls Castle, or the Head of the County.

The [5] Church of *St. Petroc* holds *Boāmine*, there *St. Petroc* hath 68 Houses, and a *Mercate*, the whole is valued at XXXV Shillings by the Year.

No other Names of the present *Burghs* in *Cornwal* to be found in *Domesday Book*, or other things of these.

In *Devonshire*, besides what were mentioned before under the Title of *Terra Regis*. There is *Excester Burgus* described by it self, *Honetone* under the Title of *Terra Comitum Moretonensis* but no *Burgh*. *Totnais Burgus*, under the Title of *Terra Judhael de Totnais*, and *Ochementone* (I suppose now *Okebampton*) *Burgus*, under the Title of *Baldwin* the Sheriff. *Baldwinus Vicecomes* [6] *Tenet Ochementone de Rege, ibi sedet Castellum, ibi quatuor Burgenses, & Mercatum valet IIII Solidos.*

No other *Names* of the present *Burghs* to be found in this County, in *Domesday-Book*, unless, as hath been noted before, those which are placed under the *Title* of *Terra-Regis*.

A In *Wiltshire*, besides what were reckoned before under the *Title* of *Terra-Regis*, there is [7] *Malmesbery* described by it self; *Merleberg* is described as an *ordinary Town*, no *Burgh*. *Duntone* is placed under the *Title* of *Terra-Episcopi Wintoniensis*, no *Burgh*, but described as an *ordinary Town*. *Salisbury* is under the *Title* of [8] *Terra-Episcopi Salisberiensis*, no *Burgh*, but described as a very great *Manner*, and as other *Country Towns*, only thus in part of the Description. In *Wiltune vii. Burgenses pertinentes huic Manerio, reddunt lxxv. Denarios*. [9] *Etesbery* (I suppose now *Heytsbury*) under the *Title* of *Terra Aluredi de Ispania*, and is thus described; B *Aluredus* [1] *de Ispania Tenet de Rege Etesberie, Alwi Tenet Tempore Regis Edwardi, valuit iii l. modo iiii l.*

[7] Ibid. fol. 64. B. Col. 1.

[8] Ibid. fol. 66. A. Col. 1.

[1] Ibid. fol. 73. A. Col. 1.

No other *Names* of the present *Burghs* to be found in the Description of *Wiltshire*, but such as were *Ancient Demeasns*.

C And so it is in other *Shires* and *Counties*, such especially as have now many *Burghs* in them, as *Somersetshire*, *Hampshire*, *Sussex*, *Lancashire* and *Yorkshire*, in every of these there are now several real or reputed *Burghs*, whose *Names* are not to be found in the *Conquerors Survey*.

D And therefore we are next to shew, or at least make a probable conjecture, what the *Original* of many (if not all) our present *Burghs* was; which to me seems to have been only from *Charters*. We will begin with those of *Cornwal*, which are most obscure, and then instance in some others.

The Original of our present Burghs.

For the *Burgh* of *Helleston* see Appendix, Numb. 8.

Helleston.

E *Truro*, *Truru*, or *Triueren*, was sometime the Possession of *Richard de Lucy*, a Person of great Note in the *Reigns* of King *Stephen*, and *Henry* the Second; in the Eighth of whose *Reign* he was made *Justice of England*. From him it came to *Reginald Fitz-Roy*, who was one of the *Illegitimate Sons* of King *Henry the First*, and was [2] Created *Earl of Cornwall* by King *Stephen* in the Fifth of his *Reign*, and died in the 21st of *Henry* the Second. He, by his *Charter*, Granted to his *Free Burgeses* of *Triueren*, That they should have all their *Free Customs*, and such as were used in *Cities*, and the same in all things which they had in the time of *Richard de Lucy*: (That is to say) *Sac*, *Soc*, *Tol*, *Them*, and *Infangenethuf*; and Granted them, That they should not *Plead* or be *Prosecuted* in *Hundred* or F *County-Courts*, nor for any *Summons* should go any where to any *Law-Business* without the *Town* of *Triueren*; and that they should be *Quit* from paying *Toll* through all *Cornwal*, in *Fayrs* and *Mercats*, and wheresoever they bought and sold. And that for the *Goods* they *Trusted*, when they were not paid, they might *Distreyn* their *Debtors*, when they found them in their *Town*. The *Charter* it self runs thus:

Truro.

[2] Dugd. Baron. f. 610. Col. 1. 2.

[2] Cart. per
Inspeximus
13. Ed. 1. N. 61.

The Charter
of Truro.

Reginaldus Regis Filius Comes [3] Cornubiæ. Omnibus Baronibus Cornubiæ & omnibus Militibus, & omnibus Libere-Tenentibus, & omnibus Tam Anglicis quam Cornubiensibus, salutem. Sciatis, quod concessi Liberis Burgensibus meis de Triuereu habere omnes Liberas Consuetudines & Urbanas, & easdem in omnibus quas habuerunt in Tempore Ricardi de Lucy, scilicet Sacham, & Socham, & Toll, & Them, & Hinfangenethus & Concessi eis quod non placent in Hundredis, nec Comitatus, nec pro aliqua summonitione eant ad placitandum alicubi extra villam de Triuereu, & quod quieti sint de Cholneo dando per totam Cornubiam in feriis, & in foris, & ubicunque emerint & vendiderint, & quod de pecunia eorum accredita, & non reddita Namum capiant, in Villa sua de Debitoribus suis. His Testibus, &c. without Date.

In the same Record it follows thus: *Inspeximus etiam Chartam quam Henricus proavus Noster (Henry the Second, who was Great Grandfather to Edward the First) fecit eisdem Burgensibus in hac Verba. Henricus Dei Gratia Rex Anglia, & Dux Normannia, & Aquitania & Comes Andegavia, Archiepiscopis, Episcopis, Abbatibus, Comitibus, Baronibus, Justiciariis, Vicecomitibus, Ministris & omnibus fidelibus suis Francis, & Anglis, totius Angliæ, & Cornubiæ, Salutem. Sciatis me Concessisse & Prasenti Carta Confirmasse Burgensibus Richardi de Lucy de Triuereu omnes Libertates & Liberas Consuetudines, quas Comes Reginaldus Avunculus meus, (base Son to Henry the First, and so Brother to Maud the Empress) rationabiliter dedit eis & concessit sicut Carta ipsius Comitis Testatur, quare volo, &c. Testibus R. Episcopo Winton. &c. without date, both which Charters Edward the First Confirmed by his Charter, dated on the 12th of June, in the * 13th of his Reign, Edmund then Earl of Cornwall being a Witness to it.*

* A. D. 1284.

[4] Cart. 13.
Hen. 3. M. 4.
[5] Pat. 2. Hen.
5. part. 3. M. 28
per inspeximus.

*Dunheved
or Lance-
ston.*

[6] Ibid.

Leskard.
[7] Pat. 2. E. 2.
Part. 2. M. 14.
per inspeximus.

Richard, Brother to King Henry the Third, was created Earl of Cornwall in the [4] Fifteenth year of his Reign, who by his [5] Charter, without date made Dunheved or Lanceston a free Burgh, and amongst other Liberties, Granted to the Burgeses to choose their own Bayliffs, who were to answer the Farm of the Burgh, which was to himself an Hundred Shillings, to the Priory of St Stephen in Lanceston, Sixty Five Shillings and Ten Pence, and to the Lepers of St Leonard of Lanceston an Hundred Shillings of his Alms. He granted them also Unam Placeam, where they should think it most Decent and Honourable, to erect a Gild-Hall in the same Burgh, to hold of him and his heirs, by a Pound of Pepper to be paid yearly at Michaelmas for all Service and Demand whatever, he Granted also they should not be Taxed when the County was, nor Talliated, by him or his Heirs, when the King Talliated all his Burghs in England. Et [6] quod non Talliantur per nos vel Heredes nostros ad Tempus quando Dominus Rex omnes Burgos suos per Angliam Talliaverit. There were Burgeses inhabiting in, or belonging to the Castle of this Town in the time of King Henry the Second, who had certain Liberties and Privileges, as appears by the Charter of Helleston in the Appendix, N. 8.

The same Earl Richard made Liskereth or Liskard a free Burgh, and Granted to the Burgeses [7] all those Liberties and Free Customs, which by his Charter he had Granted to his Burgeses of Lanceston and

Helle-

Helleston. This Charter is dated 5 Junii, in the 24th of his Brother Henry the Third. A. D. 1240.

A Edmund Earl of Cornwall his Son in the [8] Third of Edward the First, Granted this whole Burgh, with the Rent of the same, and his Mills of Bodgara, and Lonvil, with the Hill of Bodgara and the Meadows belonging to the Mills, with the Toll of the Mercat and Fairs, and also all Fines, Mulets and Perquisites of the same Burgh, belonging to him and his Heirs in Fee-Farm, at the Rent of Eighteen Pounds Sterling, to be paid to him or his Heirs by the hands of his Seneschal of Cornwall, by equal portions at Easter and Michaelmas, [9] except to himself and Heirs, that they might Talliate the said Burgh, as often and when the King of England did Talliate his Cities and Burghs. *Salvo nobis & Hæredibus nostris quod prædictum Burghum Talliare possumus, quotiescunque Dominus Rex Angliæ Civitates & Burgos suos Talliauerit.*

[8] Ibid.

[9] Ibid.

B The same Earl Richard, [1] Granted to the Prior and Canons of Bodmin, a free Merchant-Gild, (Gildam Mercatoriam) in that Town, and that their Burgeses should be free and quit of all Customs and Exactions through all Cornwall, for the yearly Rent of 43 s. and 4 d. without date, &c.

[1] Cart. 13. Ed. 1. n. 9. by Inspeximus. Bodmin.

C The same Earl when he was King of the Romans, [2] in the 12th year of his Reign [3] made Lostwithiel and Penknek one free Burgh, and that his Burgeses there should have a Merchant-Gild, and then proceeds and Grants them further Liberties in the same words with those of Truro.

[2] Cart. 19. Ed. 2. n. 24. by Inspeximus. [3] A.D. 1269. Hen. 3. 53. Lostwithiel.

D John of Eltham Second Son to Edward the Second, was Earl of Cornwall, who [4] gave and Granted to his Burgeses of Grauntpoint, or Great-Bridge in Cornwall, the whole Town, and several other Lands abuttalled and bounded in his Charter, and made it a free Burgh, which they were to hold of him and his Heirs for ever in Fee-Farm, paying at the Feasts of Easter and Michaelmas, Twelve Pounds Eleven Shillings and four Pence. This Charter * bears date the Sixth of October in the Seventh year of his dearest Brother King Edward.

Graunt-point.

[4] Pat. 1. R. 2. part. 6. m. 7. by Inspeximus. * Vid. Cart. 6. Ed. 3. n. 7. To which this John Earl of Cornwall, so named there, was a Witness.

E Reginald de Valle Torta, or Vantort, who [5] lived in the time of King John, and died in the 30th of Henry the Third, was Lord of the Honor and Castle of Trematon, which was head of it, to it [6] belonged Fifty nine Fees of the yearly Value of 259 l. 6 s. 8 d. As the Earls of Cornwall exercised their Jura Regalia in erecting of Burghs in the County, so this Reginald and his Antecessors, exercised theirs in erecting the Burgh of Essa, or Saltash, within their Honor of Trematon.

[5] Dugd. Baron f. 22. Col. 1. 2. [6] Rot. Eschaet. 28. Ed. 1. n. 44. Essa, or Saltash.

F [7] Sciunt præsentēs & futuri, Quod ego Reginaldus de Valle Torta Dedi & Concessi & hac præsentī Cartā meā Confirmavi Liberis Burgensibus meis de Essa omnes Libertates & Liberas Consuetudines suas hic subscriptas, quas habuerunt tempore Antecessorum meorum, &c. which were many, and amongst them these, That they should choose their own Bayliff or Mayor; That they should have the whole Toll of Bread, Totum Panis Theloneum; and, That none of his Burgeses should be taken and carried to his Castle, if they were able to find sufficient Sureties of their Peers, for their Transgressions. This Charter was Confirmed by Richard the Second, ut supra.

[7] Pat. 5. Ric. 2. part. 1. m. 10. by Inspeximus.

This

[8] Carew's
Survey of
Cornwal, p.
111 b. & p.
112. b. prin-
ted A. D.
1602.

[9] Cart. 13.
Ed. 1. n. 64.
by Inspeximus.
Plympton.

This Burgh of *Essi* is now called [8] *Saltash*, which lies in the same Parish of *St Stephens*, where in the Castle of *Tremeton*, the head of that *Honor* now doth, or then did stand. These instances are sufficient for *Cornwal*, some few do follow in other Counties.

Baldwin de Redvers, [9] Earl of *Devon* and Lord of the Isle (that is, *Wight*) in the 26th of *Henry the Third*, Granted to his Burgessees of *Plympton*, his whole Burgh of *Plympton*, with the Market and Fairs, and all appurtenances to the said Burgh belonging, to have and to hold to them and their Heirs of him and his Heirs for ever, so freely and quietly, with all Liberties and free Customs, eo modo sicut Cives Exoniæ melius & liberius habent vel habere debent in Civitate sua Exoniæ, quam de Rege tenent, in the same manner as the Citifens of *Excester*, best or most freely have, or ought to have in their City, which they held of the King; this Charter was confirmed by *Edward the First*, as above.

[1] Cart. 2 Ed.
3. n. 6. by
Inspeximus.
Preston.

Preston in *Lancashire*, [1] made a Burgh by King *Henry the Second*, had new Liberties granted by King *John*, when the Earl of *Moreton* and *Lancaster* confirmed by King *Henry the Third*, and *Edward the Third*.

[2] Cart. 11.
Ed. 3. m. 22.
n. 39. by
Inspeximus.
Lancaster.

The same *John* Earl of *Moreton* and *Lancaster*, [2] Granted and Confirmed to his Burgessees of that Town, in the fourth of *Richard the First*, all the Liberties which he had Granted to the Burgessees of *Bristol*, and furthermore, released to them the Suit they ought to his Mill, and acquitted them from Ploughing his Lands, and performing other Servile Customs. *Johannes Comes Moreton omnibus hominibus & amicis suis Francis & Anglicis presentibus & futuris, Salutem. Sciatis, me concessisse & hac Carta mea confirmasse Burgensibus meis Lancastriæ omnes Libertates quas Burgensibus Bristol concessi. Præterea clamavi eosdem Burgenses quietos de Secta Molendini, & de Arura, & de aliis Servilibus Consuetudinibus quas facere solebant, &c.* This Charter was confirmed by this *John*, when King, and by *Edward the Third*, in the Eleventh of his Reign, as in the Margin.

Richemund.

[3] Pat. 2. Ed.
3 Part. 1. m.
11. by Inspeximus.

John the eldest Son of the Duke of *Britain*, and Lord of *Richemund*, by his Charter without date for him and his Heirs, [3] Granted to the Burgessees of *Richemund*, the Burgh of *Richemund*, with the Mercate and Fairs, and the Tolls, with all Rents of Assize, Attachments, and Pleas, or Mulcts of the said Burgh, and his whole Demeasn, called the Land of *Fonteney*, &c. At the Rent of Forty Pound per Annum, &c. Which Charter was confirmed by *Edward the Third*, in the Second of his Reign, as in the Margin.

[4] Cart. 9.
Ed. 3. n. 53.
by Inspeximus.
Hedon.

King *John* in the Second of his Reign, Granted to [4] *Baldwin* Earl of *Albemarle* and *Hawis* or *Avis* his Countess the free Burgage in *Heddun*, now *Hedon*, *Heydon*, or *Hodon* in *Yorkshire*, to them and their Heirs in Fee and Inheritance, so that their Burgessees of *Heddun* might hold freely and quietly in free Burgage, as his Burgessees of *York* and *Lincoln*, best, most freely and quietly did hold, with such Customs and Liberties as King *Henry* his Father, (that is, *Henry the Second*) Granted to *William* Earl of *Albemarle*, by his reasonable Charter.

Johannes

Johannes Dei Gratia Rex Angliæ, &c. Sciatis nos Concessisse [5] Baldewino Comiti Albemariæ & Hawisæ Comitissæ Uxori suæ liberum Burgagium in Heddunæis & Hereditibus suis in feudo & hæreditate, ita quod Burgenses eorum Heddunæ, liberè & quietè in libero Burgagio teneant sicut Burgenses nostri de Eboraco vel Nichol melius, & liberiùs, & quietius tenent, illis Consuetudinibus & Libertatibus, sicut Rex Henricus Pater noster Willielmo Comiti Albemariæ per Cartam suam rationabilem concessit. Testibus, &c. Dat. apud Caneford 13 Die Decemb. Anno Regni nostri 2. This Charter was confirmed by Edward the Third, as in the Margin. Very many more *Instances* might be given of *Charters* of very obscure *Burghs*, and might also be published in the *Appendix*, if it were not for making this *Treatise* too Bulky.

[5] Ibid.

From these *Instances* we may make a more than probable *Conjecture*, that all *Free-Burghs*, though now never so obscure had their beginning from Charter, which was Granted as well for the Advantage of the King, Earl, or other great Man, Lord of the Burgh, as for the profit of the *Burgesses* themselves. For a *Free Burgh* in the true sense of the word, was only a Town of free Trading, with a Merchant Gild, or Community, without paying Toll, Pontage, Passage, Stallage, &c. And being free from certain *Fines* or *Mulcts*, from Suit to Hundred, and County-Courts, or being prosecuted, or answering there, or any where else, but within their own Burgh, except in Pleas of the Crown. With other *Privileges*, *Liberties* and *Customs* according to the Tenor of particular Grants and Charters. And a free *Burgess* was no other, than a Man that exercised free Trade, according to the *Liberties* and *Privileges* of his Burgh, whether he resided in it, or whether he had *Liberty* to live and Trade other where.

What a Free Burgh is.

Upon Account of these *Liberties*, the Prince or Lord of the Burgh received Toll and Customs, for the Goods bought and sold, or in process of time a Fee-Farm Rent, or Annual Composition in a stated Sum, always less than the true value, in Lien of them. And a reasonable Tallage or Aid, when for his necessity he had reason to impose it. And that Tallage was due and paid by *Citizens* and *Burgesses*, to our ancient Kings, only in Consideration of their Liberty of Buying, Selling and Trading, and the *Liberties* they had Granted them to that purpose and so to do, will be clearly evinced by what follows.

Tallage why paid and imposed by our ancient Kings.

In the [6] Eleventh of Henry the Third, New Sarum was made a City by the Kings Letters Patents, and given to the then Bishop his Successors and Canons there, and their Successors as their proper *Demefns*, (*tanquam proprium Dominicum*) and further Granted to the same Bishop and his Successors, that for the necessity of himself or his Church, he might take a reasonable Tallage or Aid of his *Citizens*, when the King or his Heirs made a reasonable Tallage in his *Demefns*. (*Concedimus insuper eidem Episcopo, & Successoribus suis, quod pro necessitatibus suis, & Ecclesiæ suæ, Tallagium vel rationabile auxilium capiant de prædictis Civibus suis, quando nos vel hæredes nostri Tallagium faciemus in Dominicis nostris.*)

[6] Riley's Placit. Parliamentar. f. 271. The Case of Salisbury about Tallage.

In the 33d year of Edward the First, the Bishop of Salisbury [7] required an Aid or Tallage of the *Citizens* of New Sarum, according to the Grant of Henry the Third, the *Citizens* refused payment, upon application

[7] Ibid. f. 273.

application of the *Bishop* to the King, he granted his precept to the Sheriff of *Wiltshire*, to *Summon*, by two legal Men, the *Mayor* and *Community* (not all the *Burgesses*, but the governing part) of *New Sarum*, to appear before him and his *Council* at *Westminster*, to shew cause why they ought not to be *Talliated* according to the *Charter* and *Grant* aforefaid.

[8] Ibid.

[9] Ibid.f.274.

They appeared by their Attorneys, [8] and Plead, that *Richard*, the Predecessor of the then *Bishop* with the Concurrence and Assent of the *Dean* and *Chapter*, by their *Charter*, had confirmed to their *Free Citifens* of *New Sarum* [9] that every one of them should hold his free *Tenement*, (*suum Liberum Tenementum*) in the *City* aforefaid, and their *Heirs* likewise, honourably, freely, quietly and peaceably, rendering to the *Bishop* and his *Successors*, (*pro plena placea*) that is, a full *Tenement* or *Burgage*, twelve pence by the year, and he that held more or less should pay according to the same quantity more or less for all *Services* and *Demands*, and upon this they produce the *Charter* of *Bishop Richard*, and demand *Judgment*, if as they were *Free Men* and *Free Tenents*, (*Descut sunt liberi & libere Tenentes*) as it was contained in the *Charter* aforefaid, and never were as they said *Talliated*, whether they ought then to be *Talliated*.

[1] Ibid.f.275.

Tallage paid by Burgesses in respect of their Trading and the use of Burgh Liberties.

The *Bishop*, notwithstanding the *Grant* of his Predecessor, [1] affirmed, they ought to be *Talliated*, and pleads the *Charter* of King *Henry III.* and that the *Citifens* at their own charge had procured a *Confirmation* of it, from King *Edward*. And the matter having been fully debated before the King and *Council* in *Parlement*, it was said, that King *Henry* in the *Grant* of their *Liberties* (which were no other than those of the *City* of *Winton*, and many other *Cities* and *Burghs*) imposed upon the said *Citifens*, the Burthen of the said *Tallage* and reasonable *Aid*, for the necessities of the said *Church*, when the King or his *Heirs* made a *Tallage* in his *Demeasns*, and from the time the said *Citifens* used their *Liberties* and *quietances* (that is from *Toll*, *Pontage*, *Passage*, &c.) to their profit, by the said *Charter*, they ought to bear the Burthen imposed upon them by the same, when 'tis consonant to Reason, that those who have the profit should bear the Burthen.

[2] Ibid.

The King therefore did *Will* and *Command*, [2] that the *Citifens* should be for that time *Talliated*, for the profit they had received by their *Liberties* from the time of the first *Grant* of their *Charter* until then. And afterward choose whether they would use their *Liberties*, and be *Talliated* according to their *Charter* for the future, or renounce them, and not be *Talliated*. The *Citifens* did choose to renounce their *Liberties*, and a few days after Surrendered them to the King by the hands of their *Mayor*.

[3] Cart. 34. Ed. 1. n. 27.

When by reason of this *Renunciation*, the *Citifens* could not use their *Liberties*, or any one of them, within less than the space of a year, they, with the *Bishop*, Petition the King to have their *Liberties* Regranted, and do submit to pay *Tallage*, as it follows in the *Charter* of this King, after the *Repetition* of King *Henry's* *Charter*, and the precedent *Judgment*. [3] *Et idem Episcopus & Prædicti Cives jam nobis attentè supplicaverunt, ut de Gratia nostra concedere ve-*

limus, libertatibus superius expressis, (in the Charter of King Henry) & dictos Cives contingentibus, & per ipsos ut prædictum est Renunciatis, de cætero uti possint & gaudere, Nos licet dicti Cives Libertatibus prædictis Renunciaverint sicut prædictum est, considerantes tamen pium propositum quod dictus Pater noster habuit ad Ecclesiam prædictam, &c. Necnon & per finem quem prædicti Cives fecerunt nobiscum coram Consilio nostro Volumus & Concedimus pro Nobis & Hæredibus nostris, quod dicta Civitas de Nova Sarum sit Libera Civitas ipsius Episcopi, & Successorum suorum, ac Ecclesie sue prædictæ in perpetuum. Et quod Cives ejusdem Civitatis ibidem manentes sint Cives ipsius Episcopi & Successorum suorum, & quod per totam Terram nostram de Theolonio, Pontagio, Passagio, Paiagio, Lestagio, Stallagio, Cariagio, & omni alia Consuetudine de omnibus rebus suis sint quieti. Et quod habeant in perpetuum omnes alias Libertates & Quietancias per totam Terram nostram quas habent Cives nostri Wynton & quod omnibus & singulis Libertatibus supra Scriptis quatenus eos contingunt de Cætero utantur & gaudeant adeo plenè & integrè sicut in dicta Carta prædicti Patris nostri necnon & in Carta nostra de Confirmatione prædicta plenius continentur. Quodque idem Episcopus & Successores sui, Tallagium vel rationabile auxilium capiant de prædictis Civibus suis, Hæredibus vel Successoribus suis ratione Libertatum ipsis Civibus per nos sic concessarum quando nos vel Hæredes nostri Tallagium in nostris Dominicis de cætero faciemus. Quare volumus, &c. In English thus.

And the same Bishop and the foresaid Citifens now most earnestly have beseeched us. That of our especial Grace we would Grant them the Liberties above expressed touching the said Citifens, and which were renounced by them, and that they might use and enjoy them; We though the said Citifens have renounced the Liberties aforesaid, considering the Pious purpose our Father had to the Church aforesaid, &c. And also for the Composition or Fine the Citifens made with us before our Council, we Will and Grant for Us, and our Heirs, that the said City of New Sarum be the Bishops and his Successors Free City, forever, and that the Citifens of the same City there dwelling, be the Bishops and his Successors Citifens, and that they be quit of Toll, Pontage, Passage, Paiage, Lestage, Stallage, Carriage, and all other Custom of all their Goods through our whole Land, and that they have for ever all other Liberties, and Quietances through our whole Land, which our Citifens of Winchester have, and that for the future they use and enjoy all and Singular the above Written Liberties, fully and wholly, as they are contained in our Fathers Charter, and our own of Confirmation. And that the same Bishop and his Successors may take a reasonable Tallage or Aid of his Citifens aforesaid their Heirs or Successors, by Reason of the Liberties by us so Granted, when we or our Heirs shall hereafter Talliate our Demeasns. Wherefore we will, &c. Dated the 28th of May at Westminster.

Why Tallage paid by Burghs and Cities.

The Emolument and Profit mentioned in this Judgment and Charter, did arise from Buying, Selling and Trading, and the Liberties (by reason whereof the Citifens were Talliated,) there spoken of, were Granted for the Furtherance and Incouragement of them, which all Free Citifens and Free Burghesses injoyed, as Members of a Free City or Burgh. And 'tis evident they were called Free Cities, (or more frequently) Free Burghs, and the Members thereof Free Citifens,

Free Burghs, Free Cities, why so called.

and *Free Burgesſes*, (almost in all *Charters*) from these *Liberties*, and *Free Trading* only, notwithstanding they were *liable* to reasonable *Tallage* imposed by the King, when his *necessity* required it; and from their paying a *Fee-Farm* Rent, and being *obnoxious* to the Kings *Tallage*, either expressed, or implied in the *Charters*, by the profit received, most of the *Cities* or *Burghs* in England, were called *Civitates & Burgi Dominici Regis*, as his *Demeasns* Lands were called *Terra Regis Dominica*, and the *Tenents* of them, *Tenentes Regis Dominici*, for the same reason, and for others as before hath been said.

A

To this we will add another *Record* for the proof of the assertion, that *Tallage* in *Cities* and *Burghs* was paid, upon the account of *Buying*, *Selling*, *Trading* or *Merchandising*, and use of their *Liberties* Granted by the King, being a *Petition* in *Parlement* in the 33d of *Edward the First*.

B

[4] Riley's
Placita Parle-
mentar. f. 259.

Ad petitionem [4] *Majoris & Burgensium Bristol* petentium quod *Homines qui Tenent Terras, & Redditus Magistri, & fratrum Templi, in Villa Bristol Tallientur & Contributionem faciant ad Tallagium Regis ejusdem Villæ cum Burgensibus ejusdem, de sicut ipsi Mercantur, & omnibus aliis Libertatibus & Aisfamentis usi sunt quæ ad dictam Villam pertinent, &c.*

Ita Responsum est. Distringantur pro Contributionibus, & Tallagiis faciendis, & fiat Justitia Conquerentibus, & super hoc habeatur Breve de Cancellaria Majori & Ballivis Bristol. That is.

C

* Note Trading, a Liberty.

To the *Petition* of the *Mayor* and *Burgesſes* of *Bristol*, that the *Tenents* of the *Master* and *Brethren* of the *Temple*, in the *Town* of *Bristol*, might be *Talliated*, and make *Contribution* to the *Tallage* of the same *Town* paid to the King, with the *Burgesſes* of the same, for that they *Traded* or *Merchandised*, and used all * *other Liberties* and *Easements*, which belong to the said *Town*.

D

It was *Answered*. Let them be *Distreined* for *Contributions*, and *Tallages*, and let *Justice* be done to the *Complainants*, and upon, or for this, let a *Writ* go out of *Chancery* directed to the *Mayor* and *Bailiffs* of *Bristol*.

By what hath been here *Written* upon that *Head*, 'tis mightily probable, that our *present free Burghs* had their *Origin*, and received the *Liberties* they have of long time used, from *Charters* only, (especially since the *Conquest*) and if any *Man* can shew any *Burghs*, or *Antient Trading Towns*, which use the *Common Liberties* of *Burghs*, without *Charter*, or that never had one, undoubtedly (if any such there be) they were *Towns* holden of the King in *Ancient Demeasns*; and the *Inhabitants* upon presumption of being his *Tenents*, did at first begin to *Buy*, *Sell* and *Trade*, and by *Connivence* continued so to do, as the *Tenents* or *Men* of the *Templers* did in *Bristol*, presuming upon their *Masters* great *Privileges*.

E

F

The *Instances* used concerning the *Original* of *Burghs*, were of such, as have been *Erected* by, or *Granted* to *Earls*. Those *Erected* by the *Charters* of *Earls*, were notwithstanding constituted such, by

by an *Implicite Derivative Power* from the King, who had Created them *Earls*, and the Chief Fundamental Dominion of those Burghs remained in the King or Crown: For the *Earls* could not *Talliate* them at their own Pleasure, but only when the Kings *Demeasns* were *Talliated*, and then by his *Grant*, or *Precept*, as is manifest from these two Records.

The Fundamental Dominion of Burghs remained in the King.

A Rex Vicecomiti Lincoln, Salutem. [5] Scias quod Commisimus Dilecto nostro Willielmo Comiti de Warennâ Grantham & Stanford cum pertinentiis habendum quousque Terram suam recuperaverit in Normannia, vel quousque ei alibi fecerimus Competens Excambium. Ita tamen quod non possit Talliare Homines de Stanford nisi per præceptum nostrum. Et ideo tibi præcipimus quod ei inde sine dilatione Sessnam habere facias. Teste Rege apud Westm. 19. Die Aprilis.

[5] Cl. 6. Johan. m. 4.

B By this Record it seems probable, that by the Original Grant, William de Warennâ might have Power and Licence to *Talliate* Grantham, but he could not impose *Tallage* upon Stanford, but by the Kings *Precept*. The other Record is this.

C Rex Vicecomiti Cornubiæ, Salutem. [6] Scias quod de Consilio nostro provisum est, quod auxilium Efficax assideri faciamus in omnibus Burgis & Dominicis nostris per totam Terram nostram Angliæ, & Volumus quod Consimile auxilium assideatur per Totam Ballivam tuam in Dominicis & Burgis nostris, ad opus dilecti fratris nostri R. Comitis Pictaviæ, & ideo tibi præcipimus quod una cum Simone de Brackel, Ballivo prædicti Comitis ad auxilium assidendum in Burgis & Dominicis nostris de Comitatu tuo diligenter intendas, Teste Rege apud Westm. 16 Die Februarii.

[6] Cl. 11. Hen. 3. part. 1. m. 19. De Tallag. in Comitatu Cornub.

D Sir William Dugdale in his Baronage, Fol. 762. Col. 1. Says, Richard Earl of Poictou Brother to King Henry the Third, was Created Earl of Cornwall in the Eleventh of his Reign, if so, the King might Grant this Precept after he was Earl, and call them his *Demeasns* and *Burghs*, by reason of his *Supream Original Dominion*, and *Prerogative*; or if not made Earl of Cornwall until the Fifteenth of that King, as hath been noted before, he might then have the *Earldom* of Cornwall in his Hands by *Eschaet*, or *Forfeiture*, and so call the *Revenues* of the *Earldom*, and *Burghs* in that County, his *Demeasns*.
E Which way soever it was, his Brother Richard could not impose a *Tallage* without his *Precept*. Which was a certain Argument that the *Supream Dominion* of those *Cornish Burghs* was in the King.

I shall conclude this Treatise with the Answers to these two Questions.

F First, Who named them, and by whose *Direction* and *Appointment* it was, that such, or such Burghs chose, and sent *Burgesses* or *Members* to *Parlement*, and not others?

Secondly, Who then were, or ought to be the *Electors*, in *Real* or *Reputed Burghs*?

The Sheriff at first directed, what Towns or Burghs should send Burgeses to Parlement.

To the First. It was left to the Sheriff of each County to Name and Direct which were Burghs, and which were not, by those Indefinite and General Words in the Writ. *De qualibet Civitate Duos Civis, & de qualibet Burgo Duos Burgenses, &c. eligi facias, &c.* To cause to be chosen two Citisens of every City, and two Burgeses of every Burgh.

[7] Return. Brev. Parl. 26. Ed. 1. in Turri Lond. Wilshire.

The [7] first Returns Extant of Knights, Citisens and Burgeses are in the Twenty Sixth of Edward the First, and in that of Wilshire for that year Annexed to the Writ, there were returned two Knights for the County, two Citisens for New Sarum, two Burgeses for Downton, two Burgeses for the Devises, two for the Burgh of Chippenham, and two for Malmesbury, with their Manucaptors, and the Writ was sent to the Constable of Merleberge, (that is, the Constable of the Castle there,) & Ballivis Libertatis Caln, & Worthe, qui nullum inde dederunt Responsum. And to the Bayliffs of the Liberty of Caln and Worthe, who returned no Answer. To the City of New Sarum, and these Six other Burghs, the Sheriff of this year, made his Precepts, and for them only made his Returns.

[8] Return. Brev. Parl. 12. Ed. 3. Wilts.

In the [8] Returns of Knights, Citisens and Burgeses to serve for this County in the Twelfth of Edward the Third, in a Parlement holden at York three weeks after Michaelmas, the Execution of the Writ was in a Schedule sewed to it, *Executio istius Brevis patet in Cedula huic Brevi consuta.* After the Return of the Knights, the Sheriff for that year, Returns only two Citisens for Sarum, two Burgeses for Wilton and two for Downton, with Manucaptors; and then for two Burgeses for Merleberg; *Breve retornatum fuit Constabulario Castri Merleberg, eo quod nulla inde fieri potuit Executio in Balliva mea infra Libertatem prædictam. Et idem Constabularius qui habet Returnum omnium Brevium & Executiones eorundem, nullum mihi inde dedit Responsum.* The Writ was returned to the Constable of the Castle of Marleburgh, because it could not be Executed by me in that Liberty, and the Constable, that hath the Return of all Writs and the Execution of them gave me no Answer. The Sheriff of this year made his Precept to two Burghs only, and for them, and no other made his Return, and one of them was not returned in the Twenty Sixth of Edward the First, and then immediately after his Answer concerning Marleburgh, closeth the Return thus. *Non sunt plures Civitates, neque Burgi infra Ballivam meam,* that there were no more Cities, nor Burghs within his Bailiwick: That is, within the County, notwithstanding Bedwin, Caln, Chippenham, Creklade, Devises, Lutgershal, Malmesbury and Marleburgh had frequently Burgeses returned to Parlement, especially the two later, before this time, as appears by the Returns in Edward the First, Second and Third until this year.

[9] Return. Brev. Parl. 36. Ed. 3. Wilts.

In the [9] Return of the Thirty Sixth of this King, after the Return of Knights for the same County, and Citisens for New Sarum, there were by this Sheriff two Burgeses returned for Wilton, two for the Burgh of Old Sarum, two for the Burgh of Downton, two for the Burgh of Chippenham, two for the Burgh of Caln, in the Return. *Nomina Burgensium Burgi de Caln,* two for the Burgh of Marleburg, two for

A for the Burgh of Devises, two for the Burgh of Malmsbury, two for the Burgh of Creklade, *Nomina Burgensium Burgi de Creklade*, so in the Return, and two for Bedwinde. Then after the Names of the Burgeses for those ten Burghs, with their Manucaptors, the Sheriff closeth his Return with these Words, & *non sunt plures Civitates nec Burgi in Comitatu prædicto, Ideo inde ulterius nichil actum est*, and therefore there is nothing further done in this matter.

B The Return of these Burgeses in the Dors of the Writ, is much to our purpose, and runs thus: [1] *Ego Henricus Sturmy Vicecomes prætextu istius Brevis de Comitatu infra Scripto, Duos Milites, & de qualibet Civitate ejusdem Comitatus Duos Cives, & de quolibet Burgo dicti Comitatus Duos Burgenses de melioribus, validioribus, & discretioribus, Militibus, Civibus & Burgensibus, Comitatus, Civitatum & Burgorum prædictorum eligi feci juxta tenorem istius Brevis, & nomina dictorum Militum Civium & Burgensium patent in quadam cedula huic Brevi Consuta.* That is,

[1] Ibid. in Dors Brevis.

C I Henry Sturmy Sheriff, by Virtue or Pretext of this Writ, have caused to be chosen, in the County under-Written two Knights, and of every City of the same County two Citisens, and of every Burgh of the said County two Burgeses, of the best, most able, and discreet, Knights, Citisens and Burgeses of the County, Cities and Burghs afore said, according to the Tenor of the Writ; and the Names of the Knights, Citisens and Burgeses, are Written in a Schedule sewed to this Writ.

W I L T S.

D In this Return notwithstanding the Sheriff returned that there were no more Cities nor Burghs in his County, yet he left out Lutgershal, which had sent Burgeses to Parlement, 7th of Ed. 2. twice in the 8th of Ed. 2. the 4th of Ed. 3. the 14th of Ed. 3. and 33d of Ed. 3. before this time, as appears by the Returns of those years.

E In the 43d of Edward the Third. The [2] Return is thus upon the Dors of the Writ. *Ego Walterus Haywood, Vicecom. Vobis sic Respondeo Mandatum Vestrum Reverenter sum Executus prout patet in Cedula huic Brevi Consuta.* I Walter Haywood Sheriff, make you this Answer, that I have Reverently, or rather (according to the meaning of the Man) Truly, Executed your Command, as is to be seen in the Schedule sewed to this Writ. And then Returns only the Names of the Knights, Citisens for New Sarum, Burgeses for Wilton, Old Sarum, Marleburgh, the Devises, Malmsbury, Creklade and no more, making no Return for Caln, Chippenham, Bedwin, or Lutgershal, nor Excuse why he did not.

[2] Retorn. Brev. Parl. 43. Ed. 3. Wilts.

F In the 26th of [3] Edward the 1st, The Sheriff of Buckingham-Shire made this Return in the Dors of the Writ. *Nulli sunt Cives, nec Burgenses in Comitatu prædicto, nec Civitas, nec Burgus propter quod Cives, nec Burgenses coram vobis venire facere non possum.* There are no Citisens nor Burgeses in the County afore said, nor City, nor Burgh, for which cause I cannot make Citisens or Burgeses to come before you.

[3] Retorn. Brev. Parl. 26. Ed. 1. Bucks & Bedford.

[4] Return.
Brev. Parl. 28.
Ed. 1.
Bucks, &c.

In the 28th of that King, the [4] Sheriff returned for *Agmundesham*, *Wycomb* and *Wendover*, two *Burgesses* for each, which were *Elected* by those Towns or *Burghs*.

[5] Ibid. 30.
Ed. 1.
Bucks, &c.

In the 30th of the same King, there were only [5] two *Burgesses* returned for *Wycomb*, and none for *Agmundesham* or *Wendover*.

[6] Ibid. 12.
Ed. 2.
Bucks, &c.

In the First and Second of *Edward* the Second, the then Sheriffs [6] returned two *Burgesses* for *Wycomb*, two for *Wendover*, two for *Agmundesham*, and two for *Great Marlow*.

[7] Ibid. 6.
Ed. 2.
Bucks, &c.

In the 6th of *Edward* the Second, Parlemt at [7] *Woodstock* July 20th, the Sheriff made this Return, *Nullæ sunt Civitates in Comitatu Bucks, nec etiam Burgi præter in Villa de Wycomb*. There are no *Cities* or *Burghs* in the County of *Buckingham*, except in the Town of *Wycomb*.

[8] Ibid. 12.
Ed. 6.
Bucks, &c.

In the 12th of this King, [8] *Wycomb* is only returned as a *Burgh*, and *Burgesses* for it in *Buckingham-Shire*, and in the close of the Return, *Nulla est Civitas nec plures Burgi, in Balliva mea*. There is no *City* or more *Burghs* in my *Bailiwick*; and so no other *Burghs* were returned in this County, until after the Reign of *Edward* the Fourth, or the Parlemt in 1641. And there are many omissions of very many other inconsiderable *Burghs*, for 100, 150, 200, 250, 300. or more years, grounded upon the like Returns, some of which sent *Burgesses*, but once or twice, before the Years, 1640 and 1641.

[9] Ibid. 21.
22. Ed. 3.
Glocester-Shire.

In the 21st and 22d of *Edward* the Third, after the [9] Return for *Knights* of the Shire, for *Glocester-Shire*, and *Burgesses*, for *Glocester* and *Bristol*, the Sheriff Returns, *Non sunt plures Burgi seu Civitates in Balliva mea*, that there were no more *Cities* nor *Burghs* in his County.

[1] Ibid. 11. 17.
22. Ed. 3.
Worcester-Shire.

In the 11th, 17th, 22d of *Edward* the Third, after *Knights* for the County, and only *Citizens* for *Worcester*, the [1] Returns were the same as in *Glocester-Shire*.

[2] See Returns of these several Counties.

And so it was in [2] *York-Shire*, *Lincoln-Shire*, *Cornwal*, *Dorset*, *Devon*, *Somerset*, *Southampton*, *Surry*, *Suffex*, and most if not all Counties in *England*, where there were, at the time of the Returns, any *Small*, *Poor*, *Inconsiderable Burghs*, and where the Sheriffs were more or less kind to them, they returned or omitted them at Pleasure, and for all what ever I could find, notwithstanding all my Endeavour, without the direction of the King or his Council.

[3] Stat. at large, 5. Rich. 2. cap. 4. p. 169.

In the 5th of *Richard* the Second, there was a Law made, [3] that if any Sheriff of the Realm should be from thenceforth negligent in making his Returns of Writs of the Parlemt, or that he should leave out of the said Returns any *Cities* or *Bouroughs*, which be bound and of old time were wont to come to the Parlemt, he shall be punished in the manner as was accustomed to be done in the said Case in the said time past. But notwithstanding this Law, the Practice of the Sheriffs remained the same it was before, as will be proved

proved by what shall in part next be said concerning the meaning and reason of these Returns.

A When the Sheriffs made their Returns, that there was not any, or more *Cities* and *Burghs* in such or such Counties, than for which they had Returned *Burgesses*, no Man can believe they were so *Ignorant*, as not to know there were other Burghs, or more than they had Returned *Burgesses* for, and therefore some other than the very Literal meaning of those Words must be found out.

B And to my Apprehension, the reasons (which also shew the meaning) of these Returns, in these Words, *Non est aliqua Civitas, vel aliquis Burgus, or non sunt plures Civitates, vel Burgi* (than what were returned) *in Balliva mea*, was for that many times, there was no able, fit, Persons for that Service to be found in the other Burghs of the County, at the time of the Return. (The choice being always made in those days out of their own Body, and not of *Foreigners* or *Country Gentlemen*.) And Secondly, for that the *Burghs* were so *Poor* as they were not able to pay the *Burgesses* their *Wages* or *Expences*.

The reasons of the Returns of *non sunt plures Burgi, &c.*

C This assertion seems to be manifestly evinced, by some other Returns made in different Words, though of the same Sense and Import, [4] in the 21 Ed. 3. after the *Burgesses* Returned for *Exon, Barnstable, Plympton, Tavystock, Toryton* and *Totnes*. The Sheriff of *Devon-Shire* closeth his Return with these Words, *Non sunt plures Civitates vel Burgi in Balliva mea quæ retornari possunt*. There are not any more *Cities* or *Burghs* in my *Bailiwick*, which can be Returned, omitting all other *Burghs* in that County, by these Words it should seem, that either there were no *Burgesses* fit or qualified for the Service of *Parlement* in the other *Burghs*, or that they were so *Poor* as they could not bear the *Expences* of such as should serve for them, for the Sheriff denies not that there were more *Burghs* in his County, but affirms they were such as could not be Returned, and if not for these, 'tis hard to imagine, for what other Reasons they were such.

[4] Return. Brev. Parl. 21. Ed. 3. Devon.

E In the [5] Returns for *Worcester-Shire* in 8 and 12 of Ed. 2. and 12, 14 Ed. 3. the Sheriff ends them thus, after the Returns of *Knights* for the County, and *Citizens* for *Worcester*, *Non est aliquis Burgus in Balliva mea, unde aliqui sunt Burgenses qui ad dictum Parlamentum venire possunt*, there is not any *Burgh* in my *Bailiwick*, whence any *Burgesses* can come to *Parlement*. For the reasons without doubt abovementioned. Though *Wyche* (now *Droitwich*) had sent *Burgesses* to *Parlement*, 26. 28. 29. 30. of Ed. 1. and in 2. and 4. Ed. 2. and in 28. and 29. Ed. 1. they received their *Expences*, as appears by the Writs, *de Expensis Militum, Civium & Burgensium*, then directed to the *Bailiffs* of that Town, and are to be found in the close Rolls in those years.

[5] Ibid. in those years. Wigorn.

F In the 27. 28. 29. 33. of Hen. 6. the Sheriffs of [6] *York-Shire*, after the Return * only of the *Burgesses* for *Scardeburgh* conclude

[6] Ibid. in those years.

* *York* was then a *City* and County, and so the Writs for *Citizens* were directed to, and returned by the Sheriffs of that *City*, and *Hull* was then also a *Town* and County, and the Writs were directed to, and returned by the Sheriffs of that *Town*.

thus. *Et non sunt Alique Civitates, vel aliqua Civitas, nec plures Burgi in Comitatu Eborum, unde aliquis Civis, ceu plures Burghenses ad Parliamentum prædictum ad præsens venire facere possum.* And there are not any Cities, or City, or more Burghs in the County of York, from whence I can make any Citifens, or more Burghesses at present come to the foresaid Parleмент. I see not what could be a *Temporary reason* why at that present the Sheriff of York-Shire, could not cause more Burghesses to come to those Parlements, from other Burghs than Scardeburgh, except one, or both of those abovementioned.

[7] Ibid. 29.
Hen. 6.
Norff. &
Suff.

In the 29 Hen. 6. only Citifens [7] for Norwich, Burghesses for Lin and Yarmouth Returned for Norffolk, and only for Ipswich and Donewick for Suffolk.

[8] Ibid. 28.
Hen. 6.
Cornwal.

In [8] Cornwall, 28th of the same King, Burghesses returned only for Launceston, Leskard, Bodmin, Lostwithiel, Truro, Helleston, and then follows, *Nullæ sunt Civitates infra Ballivam meam, nec sunt plures Burgi infra Ballivam meam.*

[9] Ibid. 28.
Hen. 6.
Devon.

In [9] Devon, the same year Burghesses Returned only for Exon, Dartmouth, Totnes, Plymouth, Plimpton, Tavestock, Barnstable.

[1] Ibid. 26.
Ed. 1.
Lanca-
Shire.

In the 26th of Ed. 1. after the Knights of the Shire [1], Ralph Fitz-Thomas and William le Chantour were Returned for the Town of Lancaster, and Adam Fitz-Ralph, and Adam de Biri for Preston.

[2] Ibid. 2.
Ed. 2.
Lanca-
Shire.

In the 8th of Ed. 2. only [2] Knights of the Shire Returned, no Burghesses for any Burghs.

[3] Ibid. 19.
Ed. 2.
Lanca-
Shire.

In the 19th of Ed. 2. for [3] Lancaster, William Laurence, John Brokeholes, no Return then for Preston, and the Words of the Sheriffs Return are, *Non sunt aliqua Civitates in dicto Comitatu nec Burgi præter Lancaster in Balliva mea*, there are no Cities in the said County, nor Burghs, beside Lancaster in my Bailiwick.

* Return.
Brev. Parl. 1.
Ed. 3.
Lanca-
Shire.

In the 1. * of Ed. 3. at the Parleмент at Lincoln, that year John le Ken, and Laurence de Bulke were returned for Lancaster, and John Starkey and Henry Banaster for Preston, and no Returns for other Burghs.

He began his
Reign January
25th A. D.
1326.
* Ibid. Eodem
Anno.

In the * same year at the Parleмент at York, Nich. de Lancaster and Henry Burgeis were Returned for Lancaster, but none for Preston, or any other Burgh.

* Ibid. 2. Ed. 3.
Lanca-
Shire.

In the * Second of the same King, in the Parleмент at Northampton three Weeks after Easter. The Writ of Summons dated 5. Martii. John de Burghton Sheriff. Adam Fitz-Simon, John le Ken, were Returned for Lancaster, and then the Return was thus closed. *Non sunt aliqua Civitates vel Burgi in Balliva mea præter Burgum Lancaster.* There are no Cities and Burghs in my Bailiwick, except the Burgh of Lancaster. No Return for Preston this Parleмент.

* Ibid. Eodem
Anno.

In the * same year of the same King, in the Parleмент at New Sarum on Sunday next after Fifteen days after Michaelmas, the Writ of

of Summons dated 26 *Augusti*, and the same *John de Burgh-ton* Sheriff, *John le Ken*, and *Robert de Bolroun* were Returned for *Lancaster*; and for *Preston*, *William Fitz-Paulin*, and *Nich. de Preston*, and then the Return ends thus, *Non sunt aliqua Civitates in Balliva mea*. There are no Cities in my Bailiwick.

A In the * 4th of *Edward the Third*, in the Parlement at *Winchester* on the *Sunday* next before *S^t Gregory*, the Writ of Summons dated 25 *Januarii*, *John de Denom* Sheriff, *William de Bolleroun*, *John de Bulke* Returned for *Lancaster*, but no Burgeses Returned for *Preston*, nor doth the Return end with, *Non sunt alii Burgi, &c.* * Ibid. 4. Ed. 3. Lanca-Shire.

B In the * same year of the same King, in the Parlement at *Westminster* on the *Monday* before the Feast of *S^t Katherine*, (i. e. *November 25th.*) the Writ of Summons dated 23 *Octobris*. The same *John de Denom* Sheriff, *Robert de Bolleroun* and *John de Ken* were Returned for *Lancaster*; and *William Fitz-Paulin* and *Henry Haydoke* for *Preston*, and then the Return is thus concluded, *Non sunt alii Burgi in Balliva mea*. * Ibid. the same year.

C In the * 34th of *Edward the Third*, the Writ of Summons dated the 20th of *November*, for a Parlement to be holden at *Westminster* on the *Sunday* before the Conversion of *S^t Paul* was directed to *Henry Duke of Lancaster*, or his Deputy, who made this Return. *Henricus Dux Lancastrie sic respondet. Nomina Militum ad respondendum, faciendum, & consentiendum in presenti Parlamento prout idem Breve requirit pro Communitate dicti Ducatus, Willielmus de Radeclisse, Ricardus de Tounkay. In eodem Ducatu non est aliqua Civitas, nec Burghus qui ante hac Tempora, in aliquo Parlamento respondit per Burgeses. Henry Duke of Lancaster answereth thus. The Names of the Knights who are to answer, do and consent in the present Parlement, for the Community of the said Dukedom, as the same Writ requires, William de Radeclisse, Richard de Tounkay. There is not any City in the same Dukedom, nor Burgh, which before this time answered in any Parlement by Burgeses. It wants not probability, that from the 4th of Edward the Third, to this 34th of the same, there might be Thirty years intermission and omission of Burgeses for these Burghs, (in all that time there being no Return of Burgeses for this County,) which might be the reason of this Return.* * Ibid. 34. Ed. 3. Lanca-Shire.

E In the 38th of this King, the [4] Sheriff of *Lanca-Shire* after the Return of the Knights, gives the reason why *Citizens* and *Burgeses* ought not, nor were wont to come, in these Words. *Et non sunt aliqui Civitates seu Burgi infra Comitatum de quibus aliqui Cives seu Burgeses ad dictum Parliamentum venire debent seu solent, propter eorum debilitatem seu paupertatem.* That there were not any Cities, or Burghs within that County, from which any *Citizens* or *Burgeses* ought, or were wont to come to the said Parlement, for, or by reason of their *Inability* or *Poverty*. [4] Ibid. 38. Ed. 3.

F In the 39th of *Edward the Third*, the Return is [5], *Non est aliqua Civitas seu aliquod Burghum de quibus aliqui Cives seu Burgeses venire possunt seu solent secundum tenorem Brevis propter eorum debilitatem & paupertatem.* There is not any City or any Burgh from which

which any *Citizens* or *Burgesses*, can or were wont to come, by reason of their *Low Condition* or *Poverty*. The same Words are in the 50th of *Edward* the Third. And the Returns of this County are closed after this manner with some small variation, in the Reigns of *Edward* the Third, *Richard* the Second, *Henry* the Fourth, Fifth and Sixth, and *Edward* the Fourth, and no *Burgesses* Returned for any Town or Towns in all that time from the 33d of *Edward* the Third, which was 124 years, and how much longer it cannot well A

[6] Ibid. 10.
Hen. 4.

In the 10th of *Henry* the Fourth, there was this Return made after the Knights, &c. [6] *Et non sunt aliqui Cives aut Burgenses infra dictum Comitatum Lancastriæ qui ad dictum Parlamentum venire possunt propter eorum paupertatem & debilitatem*. The same Return is Word for Word in the 2d of *Henry* the Fifth.

[7] Ibid. 7.25.
28.33.H. 6.
Lanca-
Shire.

In the 7th, 25th, 28th, 33d of *Henry* the Sixth. The Returns were with this small Variation. [7] *Et non est aliqua Civitas infra Comitatum prædictum nec Burgus qui ad aliquod Parlamentum Temporibus retroactis aliquos Cives aut Burgenses Mittere solebant propter eorum paupertatem & debilitatem, ideo de Civibus & Burgensibus nulla fit mentio*. And there is not any City within the County aforesaid, or Burgh, which used to send any *Burgesses* or *Citizens*, to any Parle- B
ment in former times, by reason of their *Poverty* and *Inability*. C
Therefore no mention is made of *Citizens* or *Burgesses*.

[8] Ibid. 27.
Hen. 6.
Lanca-
Shire.

In the 27th of *Henry* the Sixth. The Return after the Knights Names, is somewhat different from others. [8] *Et non est aliqua Civitas infra Comitatum prædictum nec Burgus qui ad aliquod Parli- D
amentum temporibus retroactis aliquos Cives aut Burgenses solebant in-
venire propter eorum debilitatem & paupertatem, ideo, &c.* And there is not any City within the County aforesaid, or Burgh, which in former times were wont to find *Citizens* or *Burgesses* in any Parle- D
ment by reason, &c.

In the 17th of *Edward* the Fourth, on the Dors of the Writ of Summons for Election of two *Knights* for the County, two *Citizens* for every City, and two *Burgesses* for every Burgh, in the Return after the Indorsment of the *Knights* for the County and their *Manu- E
captors*, it follows. *Et quia non est aliqua Civitas infra Comitatum prædictum, aut Burgus qui ad aliquod Parlamentum temporibus retroactis aliquos Cives aut Burgenses Mittere solebant propter eorum paupertatem & debilitatem, coram Domino Rege & Consilio suo, ideo de Civibus & Burgensibus non est mentio*. And because there is not any City within the said County or Burgh which in former times sent any *Citizens* or *Burgesses* to Parle- F
ment before the King and his Council by reason of their *Poverty* and *Inability*, therefore no mention is made of *Citizens* and *Burgesses*. The same Words are in the Sheriffs Indenture of Return of Knights of the County annexed to the Sheriffs Precept, and the same Returns were in the 7th and 12th years of this King.

In the Seventh of *Edward* the Fourth, (who began his Reign March 4th A. D. 1461.) in the Parle- ment at *Westminster* on the Third of June,

June, the * Writ of Summons dated February 28. in the sixth of his Reign, Henry Barle Sheriff of Essex and Hertfordshire, after the Returns of Knights for each County, and Burgeſſs only for Colcheſter and Maldon, adds this Clause; *Et in prædicto Comitatu Hertford non est Aliqua Civitas, nec aliquis Burgus, unde Aliqui Cives sive Burgenses, nec aliqua Civitas, neque plures Burgi in Dicto Comitatu Essex, unde plures Burgenses neque aliqui Cives Eligi possunt.* That is,

* Return.
Brev. Parl. 7.
Ed. 4.

A

And in the foresaid County of Hertford, there is not any City, or any Burgh from whence any Citifens or Burgeſſes may be chosen. Nor is there any City, or more Burghs in the said County of Essex, from whence any Citifens, or more Burgeſſes may be chosen.

B

By these few Returns and Instances, of very many more which might have been produced, if needful, 'tis abundantly proved, That from the 23d of Edw. 1. when the First Writs were sent forth for the choice of Citifens and Burgeſſes, and also during the Reigns of Edw. 2. and 3. Rich. 2. Hen. 4. 5. and 6. and Edw. 4. it was left to the Discretion and Judgment of the Sheriffs, which Burghs were fit and able to send Burgeſſes, and which not. And that if antient able Burghs became poor and indigent, and unable to pay the Expences of their Burgeſſes, or had none fit to chuse, it was a just Ground for the Sheriff to excuse them from the trouble and charge of Electing and sending Burgeſſes, notwithstanding the Statutes 5 Rich. 2. c. 4.

The first Writs sent for the Choice of Citifens and Burgeſſes.

Sheriffs Judges of what Burghs were fit and able to send Burgeſſes, and what not.

C

1 Hen. 5. c. 1. 8 Hen. 6. c. 7. 23 Hen. 6. c. 15. And also, That the plain Negative Returns, of *Non sunt aliqui Civitates vel Burgi in Balliva mea*, or *Non sunt plures Civitates vel Burgi in Comitatu prædicto*, &c. are to be explained by those other Returns of *Non sunt aliqua Civitates, vel aliqua Civitas, nec plures Burgi*, (in this, or that County) *unde Cives vel Burgenses venire facere possum, or unde Cives & Burgenses venire possunt, vel venire debent, vel venire solebant*, and other different Expressions before mentioned. Propter debilitatem eorum & paupertatem. Those Absolute Negatives in Terms only, being equivalent in signification to the other, and import no more, than, that those Burghs the Sheriffs did not return, at such times, were poor and inconsiderable, and that either they had not fit Persons to send, or for their poverty could not pay their VVages, or bear the Expences by Law due to them. And all this was done by Vir-

The reason and meaning of Sheriffs Negative Returns.

D

tue of the General Clause in the VVrits, *De qualibet Civitate duos Cives, & de quolibet Burgo duos Burgenses*, &c. For in the Charters of Antient Burghs, there was no Clause or Grant for the choice or sending of Burgeſſes to Parlement, nor have I ever seen or heard of any particular Directions from the King and Council, or others, to the Sheriffs, for the sending their Precepts to this or that Burgh only, and not to others.

E

F

I shall finish the Answer to the first Question with this Remarque; That the Burghs during the time of all these Kings Reigns, never complained of the Sheriffs for not Returning them Burghs, or not sending Precepts to them, or taking away their Birth-Rights. Nor did they clamor against hard usage, or injustice. Nor did the King, Lords, or Commons in Parlement, ever blame, complain of, or question the Sheriffs for sending, or not sending Precepts to this, or that Burgh; to all, or any of them, and making Returns accordingly. Nor was

No Complaint made by the Burghs of Sheriffs for not sending Precepts to Elect Burgeſſes, &c.

[9] Pat. 42. Ed.
3. part. 1. m. 8.
Torriton in De-
von-Shire dis-
charged from
sending Bur-
gesses.

it accounted an Advantage, Honor, or Privilege, to be bound to send Burgesses to Parlement, but rather on the contrary, it was reputed a Burthen and a grievance for Poor and Small Burghs to send them, as in the Case of [9] *Torriton* in Devon-Shire, that *Petitioned* the King in Parlement to be discharged of sending Burgesses to Parlement, suggesting it was great Trouble and Charge, and to their manifest Damage and Depression, and their *Petition* was Granted, and the Town or Burgh Exonerated and Excused for ever after, notwithstanding it had sent Burgesses Thirty two times before.

[1] Commons
Journal, die
veneris 21 Maii
22 Jacobi. A.
D. 1624.

Where no
Charter or Cu-
stom, how Ele-
ctions to be
made?
* i. e. in truth
where there is
not, nor can
be a Burgh.

The Second Question, who were or ought to be the Electors in real or pretended Burghs, hath much exercised the House of Commons, (since they have taken upon them to determine those Cases) and perhaps there hath scarcely been given a direct and true Solution of it to this day. In the 22d of King [1] *James* in a contest between Sir *William Masters*, and Sir *Maurice Berkley*, upon an Election made at *Cirencester* in *Glocester-Shire*, upon the Question, it was Resolved, that no consent of Parties, Competitors, can alter the Legal course of Elections. That where no Charter or Custom to the contrary, the Election to be made by all the Householders; that Sir *William Masters* duly Elected, that he had the greater Number of Inhabitants and Freeholders; and that where * neither Charter nor Custom, nor free Burgesses in any Borough, there the Election to be made by Householders, and not only Freeholders.

[2] Commons
Journal, vene-
ris 23 Martii
4. Car. 1. A.
D. 1628.

In the 4th of King [2] *Charles* the First, Report made from the Committee of Privileges, (now the Committee of Elections) by Mr. *Hackwill*.

Two Electi-
ons, one by the
Mayor Alder-
men and Com-
mon Council,
the other by
the common
sort of Bur-
gesses.
An insufficient
prescription.

Colchester, one only Return made by the Bailiffs, in which Sir *Thomas Cheek*, and Mr. *Alford* returned. That the Bailiffs, Aldermen and Common Council, consisting of Forty two in an upper Room, read the Writ and there Elected Sir *Thomas Cheek*, and Mr. *Alford*. In a lower Room the Common sort of Burgesses in General, Elected Sir *Thomas Cheek*, and Sir *William Masbam*.

That the Bailiffs, &c. made their Prescription, by Election, as they now made it. Against this alleged, that till *Richard* the First, no Bailiffs, nor then, no Common Council, till *Edward* the Fourth, then Sixteen appointed by a new Charter, which by Constitutions si-
thence they have increased to —

Upon this the Prescription holden Insufficient, that the Committee is also of Opinion, that the Election of Sir *William Masbam* is Good, and his Name to be put in by the Bailiff instead of Mr. *Alford*.

Upon Question Sir *William Masbam* duly Elected, and his Name by one of the Bailiffs was Inserted at the Board, in stead of Mr. *Alfords*.

[3] Commons
Journ. Sabbat.
12 April. 4.
Car. 1. 1628.
Whether the
Commons or
chief Burges-
ses, Electors.

Mr. *Hackwill* [3] Reporteth from the Committee of Priviledges the Case of the Burgh of *Bridport*. The Question whether the Commons, or the two Bailiffs and Thirteen Capital Burgesses are Electors. There the last claiming by Prescription the sole Power, this proved
*
by

by two Witnesses for Forty Six years, *primo Jacobi* claimed it, but were denied.

A Certificate of Disclaimers under the Hands of 80 Commoners offering to justify it upon Oath, and affirmed they could have proved it by Forty Commoners more.

A On the other part Records produced the 6th of Edw. 6. Indenture returned the Election to be per Ballivos per assensum Communitatis, 2. & 3. Philip. & Maria Election accordeth, 1 Eliz. accordeth, 1 Jacobi accordeth. This also proved by two Witnesses, above 40 Commoners gave Voices *primo Jacobi*. Another that above 60 years ago the Commoners had Voice, and that he himself, then a Commoner, gave Voice.

These the very words of the Journal.

B Replied to this, That the Addition of the Commonalty, because that the Name of the Corporation, that so they make their Leases, yet the Commoners never meddle.

And these;

Exception to one of the Witnesses, That he, a Commoner, and very aged Man, scarce could hear, or be heard; That the other have been Disfranchised, and therefore spake out of spleen.

And these; and so to the end of this Case.

C Alledged for them, That *primo Jacobi* the Commons called, because they were to Contribute towards Wages.

Agreed by the Major part of the Committee, That the Commoners had Voice in Election.

Resolved also here no good Election, because the Commons having right of Voice, had no Warning as they ought to have had.

D Resolved upon the Question, The Commonalty in General ought to have Voices in the Elections of the Burgesses for Parliament.

Upon the Question, The Election void in respect of the want of Warning to the Commonalty.

A new Writ for a new Election.

E Mr. Hackwill [4] reporteth from the Committee of Privileges the Case of Boston in Lincolnshire, Mr. Bellingham the Recorder, and Mr. Okeley chosen.

[4] Commons Journal, 7^{ovis} 8 Maii, 4 Car. 1. 1626.

The Question, Whether a Select Number, or the Commonalty were to chuse. Sir * Anthony Irby chosen by Majority of Voices of the Commonalty, and 14 of the Select Number.

* He of my own Knowledge a Friend to the Cause.

F Agreed by the Committee, That the Election of Burgesses in all Burroughs did of Common Right belong to the Commoners, and that nothing could take it from them; but a Prescription and a constant usage beyond all memory.

Voted to whom the right of Election belongs in all Burghs.

1. Upon the Question, the right of Election for Burgesses to serve in

in Parlement for *Boston*, resteth in the *Commonalty*, and not in the *Mayor*, *Aldermen*, and *Common Council*.

2. Upon the Question, Mr. Okely not duly Elected or Returned.

3. That Sir *Anthony Irby* duly Elected, and ought to have been Returned.

4. That the *Mayor* of *Boston* shall be sent for, to put out Mr. Okely's Name, and put in Sir *Anthony Irby*'s.

[5] Commons
Journ. Sabbat.
ultimo Maii,
4 Car. I. 1628.

The Case of
Warwick.

Mr. *Hackwill* [5] reporteth from the Committee of Privileges the Case of *Warwick*. Question, Whether the Election to be made by the *Mayor* and *Common Council*, or by the *Commons* in general? That a *Petition* produced whereby above 200 *Commoners* Disclaim to have any Right of Election. But that refused to be accepted by the Committee, because if but one *Commoner* appear to sue for his Right, they will hear him.

1. Upon the Question, The Right of Election for the Town of *Warwick* belongs to the *Commonalty*.

2. That Mr. *Robert Grevill* and Mr. *Francis Lucy* unduly Elected.

3. A new Writ to issue for a new Choice in their Rooms.

By these Five Instances it appears how perplexed and conjectural the Opinions of the Committee, and Resolves of the House of Commons were, concerning the Right of Electing of Burgesses to serve in Parlement, and the Persons in whom it was Lodged. They judged, the Communities or Commonalties of Cities and Burghs to be only the ordinary and lower sort of Citisens, Burgesses, or Freemen in General. And that the Right of Election of Burgesses in all Burghs did of common Right belong to the Commoners, (meaning) the ordinary sort of Burgesses or Freemen, and not to the Mayor, Aldermen, and Common Council, as in the Cases of *Boston*, *Colchester*, and *Warwick*, nor in the Bayliffs and Capital Burgesses, being a Select Number, as in the Case of *Bridport*.

[4] Ibid. Jovis
20 Martii,
3 Car. I. 1627.

The Commu-
nities or Com-
monalties of
Cities and
Burghs are the
Governing
part of them.

The Ground of this popular Error was, That this Committe (notwithstanding the two great Antiquaries [4] Sir *Robert Cotton*, and Mr. *Selden*, and the Oracle of Law (so called) Sir *Edward Coke*, were Members of it) did not truly understand the meaning of the words *Communitates Civitatum, & Burgorum*, the Commonalty of Cities and Burghs; which always signified the Mayor, Aldermen, and Common Council, where they were to be found, or the Steward or Bayliff, and Capital Burgesses, or in short the Governing part of Cities and Towns, by what Persons soever they were Governed, or Names and Titles they were called and known, which hath been sufficiently evinced by what hath been said before in this Treatise, upon that Subject. So that, if the Communities of Cities and Burghs had been truly understood, the Committee ought to have Determined, and the House Resolved, That the Right of Election in very many, if not in most, or all Cities and Burghs, ought to have rested in the Governing part of them, which is always a Select Number. And therefore I shall produce many Instances from the Returns of Parlement Writs upon Record, to Confirm this Opinion.

In

In the 26th of Edward the First, in most Counties, Cities and Burghs; the Knights, Citifens and Burgeses are only named with their Manucaptors, or Sureties, in the Dors of the Writ, as for Example. [5]

[5] Retorn.
Brev. Parl. 26.
Ed. 1. The
first Returns
Extant.

Nomina Duorum Militum Comitatus Hereford, with each of them four Manucaptors, there named. *Nomina Duorum Civium Civitatis Hereford*, with each two Manucaptors or Sureties there named. *Nomina*

- A *Duorum Burgensium de Burgo Leominster*, with each two Manucaptors, there named. But not said by whom Elected; and so in many others, with some, not very material, Variation.

Yet in some, the Elections are said to be made by the Bailiffs, with the assent of the Community, or for the Community of the Burghs. So the choice was made for the Town of Derby. Et Breve [6] istud re-

[6] Ibid.

- B *turnatum fuit Willielmo Oyler, Ballivo Libertatis Villæ Derby, qui plenum Returnum Brevis habet pro duobus Burgensibus ejusdem Villæ, & mihi Respondit, quod elegit assensu Communitatis Totius Villæ prædictæ Magistrum Willielmum Broun de Derby, & Nicholaum Latimer de eadem.* And that Writ was Returned to William le Oyler Bailiff of Derby, who hath full Return of the Writ for two Burgesses of the same Town. And he Answers me, he hath chosen by the assent of the Community of the whole Town aforesaid, Master William Broun of Derby, and Nicholas le Latimer of the same, who have two Manucaptors for each Returned. In like manner for the Town of Nottingham.

- C *Et Breve istud [7] Retornatum fuit Ballivis, &c. Qui michi Responderunt quod elegerunt assensu Communitatis Villæ prædictæ Johan. le Fleming de Nottingham, Adam le Fleming de eadem, and that Writ was Returned to the Bailiffs of the Liberty of Nottingham, &c. Who Answer me, that they have chosen by the assent of the Community of the Town aforesaid, John the Fleming of Nottingham aforesaid, and Adam the Fleming of the same, who found each two Sureties for their Appearance in Parlement. So two Burgesses chosen, [8]*

[7] Ibid.

- D *pro Communitate Burgi Colecester, for the Community of the Burgh of Colechester, with four Manucaptors or Sureties each, likewise, [9] Johannes de Westreet de Hertford Simon Walle de eadem, electi sunt duo Burgenses per Communitatem Burgensium Hertford, &c. And gave Security for their Appearance by four Manucaptors each.*

[8] Ibid.

[9] Ibid.

- E Accordingly two Burgesses were Elected for the Community of the Burgh of Newcastle upon Tine, with their Names, and Manucaptors Names in a Schedule. *Nomina [1] Burgensium pro Communitate Burgi Novi Castri super Tinam, sunt in Cedula hæc Brevis Annexâ.*

[1] Ibid.

- F In the 27th of Edward the Third, that King directed his Writ to the Bailiffs of the Town of Boston in Lincoln-Shire. *Edwardus [2] Dei Gratia, &c. Ballivis Villæ de Sancto Botolpho, &c. And then after the Introduction to, and Causes of the Precept itself, which follows in these Words, Vobis præcipimus firmiter injungentes quod duos Burgenses de provectioribus, & discretioribus, & magis expertis Burgensibus Villæ prædictæ, de assensu ejusdem Villæ sine dilatione eligi, & eos ad Diem & Locum prædictos venire faciatis, ita quod iidem Burgenses pro se & Communitate Villæ prædictæ sufficientem potestatem habent, ad Tractandum, Consulendum, & Consentiendum his quæ tunc Divina favente Clementia de Communi Consilio contigerit Ordinari, &c.*

Boston.
[2] Retorn.
Brev. Parl. 27
Ed. 3.

We command, firmly injoyning you, that without delay you cause to be chosen two Burgeses, of the more Grave, *Discreet* and *Experienced Burgeses* of the Town aforesaid, by the *assent* of the same Town. So that the same *Burgeses* may have sufficient Power for themselves and the *Community* of the Town aforesaid to *Treat*, *Consult* of and *Consent* to those things, which, Divine Clemency favoring, shall happen to be ordained by common advice, &c.

A

[3] Ibid.

The Return in the Dors of the Writ was answerable to the Words of the Precept of this Writ. *Respons.* [3] *Johannis de Morys, & Ricardi de Rede Ballivorum Villa de Sancto Botolpho.*

Manuautores Johannis de Skirbek de Sancto Botolpho unius Burgensium Villa de Sancto Botolpho, de assensu ejusdem Villa electi ad Tractandum, Consulendum, & Consentiendum secundum Tenorem hujus Brevis.

B

*Thomas de Tumby de Sancto Botolpho.
Johannes de Gosberkirk de eadem.*

Manuautores or Sureties of *John de Skirbek* of *Boston*, one of the *Burgeses* of *Boston*, chosen by *assent* of the same Town, to *Treat*, *Consult* and *Consent* according to the *Tenor* of this Writ.

*Thomas de Tumby of Boston,
John de Gosberkirk of the same.*

C

The same Return, and in the same Words, is for *William Bayard*, the other *Burges* with two *Manuautores*. This *Town* of *Boston* never *Elected*, or *Returned* any *Burgeses* during the *Residue* of this *Kings Reign*, nor in the *Reigns* of *Richard* the Second, *Henry* the Fourth, Fifth, Sixth, and *Edward* the Fourth.

D

Bristol.

[4] Ibid.

In the Writ directed to the *Mayor* and *Bailiffs* of *Bristol* to choose *Burgeses* for the same Great Council, the Precept is the same. [4] *Vobis precipimus firmiter injungentes, quod duos Burgenses de provectionibus, & discretioribus & magis expertis Burgensibus Villa predictae de assensu ejusdem Villa sine dilatione eligi, & eos ad diem & locum predictos venire faciatis. Ita quod iidem Burgenses pro se & Communitate Villa predictae sufficientem potestatem habent, &c.* As in the former Writ for *Boston*.

E

[5] Ibid. in Cedula.

To the Precept of this Writ, the following Return was made. [5] *Virtute Brevis Domini Regis presentibus annexi, nos Major & Ballivi Villa Bristol, de assensu Communitatis Villa predictae eligi fecimus Thomam Babbecary, & Willielmum Coumbe de essendo ad diem & locum infra Breve contentos ad faciendum quod ex parte Domini Regis eis tunc ibidem injungetur.* That is,

F

By Virtue of the Kings Writ annexed to these Presents, we the *Mayor* and *Bailiffs* of the Town of *Bristol*, by *assent* of the *Community* of the Town aforesaid, have caused *Thomas Babbecary* and *William Coumbe* to be chosen, to be at the *time* and *place* contained in the Writ, to do what on the behalf of the Lord the King, shall then, and there be injoyned them.

It appears by this Writ and Return, that the words *Assensus Villæ*, and *Assensus Communitatis Villæ*, signified the same thing ; and that as the *Community* of the *Town*, so the *Town* itself, *Government* of the *Town*, and *Body Politique* were, and did consist of a select Number.

A The words of the Writ directed to the *Mayor* and *Bailiffs* of *Ex-*
cester for the choice of *Burgesses* for this Great Council, are the same
 with those of *Boston* and *Bristol*, [6] *Vobis præcipimus firmiter injun-*
gentes quod Duos Burgenses de Provecioribus, Discretioribus, & ma-
gis Expertis Burgensibus Civitatis prædictæ, de assensu ejusdem Civitatis
sine Dilatione Eligi, &c. Ita quod iidem Burgenses pro se & Commu-
nitate Civitatis, &c. sufficientem potestatem habent, &c. The Return
 was, as hereunder written.

Excester.

[6] Ibid.

B *Roberti de Brideport* [7] *Manuceptores* { *Johannes Spicer.*
Willielmus Wike.
Roberti de Hugheton Manuceptores { *Willielmus Sleght.*
Richard Oliver.

[7] Ibid. in
Dorso Brevis.

C *Responsio* [8] *Roberti de Brideport Majoris Civitatis Exon. & Ri-*
cardi Oliver & Thomæ Spicer Ballivorum ejusdem Civitatis, ac Commu-
nitatis Civitatis prædictæ, talis est. Quod ipsi eligerunt prædictos Rober-
tum de Brideport, & Robertum de Hugheton Burgenses dictæ Civitatis,
ad faciendum secundum Tenorem istius Brevis. In English thus :

[8] Ibid.

The Answer of *Robert de Brideport Mayor* of the *City* of *Exon*, and
Richard Oliver and *Thomas Spicer Bailiffs* of the same *City*, and the
Community of the *City* aforesaid, is such ; That they have chosen
 the foresaid *Robert de Brideport*, and *Robert de Hugheton Burgesses* of
 the said *City*, to do according to the *Tenor* of the Writ.

D The words of this Return do illustrate the words of the former, and
 make it most evident, That the Assent of the *Mayor*, *Bailiffs*, and
Community of the *City* of *Exon*, which was the *Government* of it,
 was the Assent of the *City* itself.

E The form and words of the Writ for the choice of *Citizens* for the
 same Great Council, directed to the *Mayor* and *Sheriffs* of the *City*
 of *London*, are the same. [9] *Vobis præcipimus, &c. Quod duos Ci-*
ves, &c. de assensu ejusdem Civitatis sine Dilatione eligi, &c. The
 Return was as follows.

[9] Ibid.
London.

F *Eligi* [1] *fecimus Thomam Leggy & Thomam Dolseley duos Cives*
Civitatis London de assensu ejusdem Civitatis ad interessendum coram vo-
bis in instanti Consilio sufficientem potestatem pro se & Communitate
Civitatis prædictæ habentes ad Tractandum, Consulendum, & Consenti-
dum his, quæ, Divina favente Clementia, de Communi Consilio tunc
contigerit Ordinari.

[1] Ibid. in
Dorso Brevis.

Et prædictus Thomas Leggy attachiatus est per Radulphum de
Cauntebrigge, & Johannem Herewardstoke.

Et prædictus Thomas Dolseley attachiatus est per Thomam Wil-
chir, & Rogerum de Reygate.

Responsio Ade Franceys Majoris, & Johannis de Stodeye, & Johannis Picche Vicecomitum. The Return is thus made English:

We have caused to be choiſen *Thomas Leggy* and *Thomas Dolſeley*, two Citifens of the City of *London*, by Affent of the ſame City, to appear before you in the Council next to be holden, having ſufficient Power for themſelves, and the Community of the foreſaid City, to Treat, Conſult, and Conſent to thoſe Things which by Divine Clemency ſhall happen to be Ordained by Common Advice.

A

The foreſaid *Thomas Leggy* hath given Security for his being in Parleмент by *John de Cauntebrigge*, and *John Herewardſtoke*.

And the foreſaid *Thomas Dolſeley* hath done the ſame, by *Thomas Wilchir*, and *Roger de Reygate*.

The Anſwer of *Adam Franceys Mayor*, and *John de Stodeye*, and *John Picche Sheriffs*.

B

What is here meant, by the Affent of the City, and the Power they had to Treat for themſelves, and Community of it, and what the Community itſelf was, hath been cleared by what hath been obſerved upon the Returns of *Bristol* and *Exon*; and is confirmed by the following Record beyond all Contradiſtion.

C

Retorn. Parl.
12 Ed. 2.
London.

Excellentissimo Principi & Domino ſuo carissimo Domino Edwardo Dei Gratia Illuſtriſſimo Regi Anglie Domino Hibernie & Duci Aquitannie Johannes de Wengrave Major Civitatis London. Aldermanni, Vicecomites, & tota Communitas ejusdem Civitatis, ſe & ſua. Noverint Excellentia veſtra nos assignaſſe dilectos Concives noſtros Johannem de Cherleton, Willielmum de Fleie & Rogerum le Palmere vel duos eorum, ac eiſdem vel duobus eorum plenam & ſufficientem poteſtatem dediſſe per preſentes ad faciendum in hoc inſtanti Parlamento veſtro à die Sancti Michaelis ultimo preterito in tres ſeptimanas apud Ebor. quod de Communi Conſilio ordinabitur in Parlamento predicto juxta formam Brevis veſtri nuper nobis inde directi. In cujus rei teſtimonium has literas noſtras eiſdem fieri fecimus Patentes. Sigillo Communitatis noſtre predictæ ſignatas. Dat. London. Sextodecimo die Octobris, Anno Regni veſtri duodecimo.

D

To the moſt Excellent Prince, and their moſt Dear Lord, the Lord *Edward* by the Grace of God the moſt Illuſtrious King of *England*, Lord of *Ireland*, and Duke of *Aquitain*, *John de Wengrave Mayor* of the City of *London*, the Aldermen, Sheriffs, and the whole Community of the ſame City, Themſelves and Theirs. Your Excellency may know we have assigned our beloved Fellow-Citiſens *John de Cherleton*, *William de Flete*, and *Roger le Palmere*, or two of them, and have given to them, or two of them, full and ſufficient Power by theſe Preſents, to do in this your inſtant Parleмент, to be holden at *York* three weeks after *Michaelmas*, what ſhall be Ordained in the foreſaid Parleмент by Common Advice, according to the form of your Writ lately to us directed. In witneſs whereof we have made theſe our Letters Patents, to be ſealed with the Seal of our Community or Commonalty aforeſaid. Dated at *London* the 16th day of *October*, in the 12th year of your Reign.

E

F

There

There can be no doubt, but what was called the City in the preceding Record, was the same with the Mayor, Aldermen, Sheriffs, and whole Community or Commonalty in this Record.

A The Writ upon which this Return was made, was dated at Nottingham, August 25th, and directed only to the Sheriffs of London, not to the Mayor, Aldermen, Sheriffs and Community, as the Return insinuates, and the Precept was only to choose two Citizens, though there are three Returned as chosen.

B Edwardus Dei Gratia Rex Angliæ, &c. Vicecomitibus London, Salutem. Quia pro diversis & arduis negotiis nos & statum Regni nostri specialiter tangentibus Parliamentum nostrum apud Eborum a Die Sancti Michaelis proximo futuro in tres septimanas tenere ac cum prælatis, &c. Vobis præcipimus firmiter injungentes quod de Civitate nostra prædicta duos Cives de discretioribus, &c. Teste meipso apud Nottingham 25 Die Augusti. Anno Regni nostri duodecimo.

Return. Brev.
Parl. 12 Ed. 2.

Per ipsum Regem & Consilium.

C In the Second of King Henry the Fifth, the Mayor of York and thirteen more Concives, Fellow-Citizens named in the Return, Plenam potestatem de tota Communitate Civitatis habentes, eligerunt duos Cives idoneos, &c. Having full power from the whole Community of the City, chose two fit Citizens, &c. In Witness whereof they put their particular Seals to the Indenture of Return.

York.

See the Returns of Parliament Writs for these years.

D In the Indenture of Return for the Town of Derby in the Twelfth of Henry the Fourth, after Six of the Electors Names, which were of the Community, it follows, & per Multos alios de Communitate prædicti Burgi Derby, qui in Curia Burgi interfuerunt Electi sunt duo Burgenses, and by many others of the Community of the Burgh of Derby, which were present in the Court of the Burgh, two Burgesses were Elected, &c.

Derby.

Pryn's Brevia
Parl. Rediviva.
p. 267.

E In the Second of Edward the Third, for the Parlement at York, Bailiffs & Communaltie de la Ville de Geppewic de nostre Commun assent avons Eluz, nous Comburgois Geffrei Stacy & Christophre Del Bois de Estre pur nostre dit Ville al Parlement avaundite, &c. The Bailiffs and Communalty of Ipswich, by our Common assent have chosen of our Fellow Burgeses, Geofry Stacy and Christopher Del Bois, to be for our said Town at the Parlement aforesaid.

Ipswich.

Not to be found amongst the Returns of this year.

F In the Second of Henry the Fifth, the Mayor, Aldermen, Bailiffs and whole Community of the Burgeses of the Town of Oxford, chose Burgeses for the Parlement at Westminster. Omnibus ad quos præsentæ literæ pervenerint, Major, Aldermani Ballivi & Tota Communitas Burgensium Villæ Oxon. Salutem, &c. Sciatis nos unanimi assensu & consensu nostris, &c. Elegisse dilectos Comburgenses nostros Johannem Merston, & Thomam Coventry essendum ad Parliamentum, &c. In cuius rei Testimonium præsentibus Sigillum nostrum Commune apposuimus Dat. in Gihala Ville prædictæ, &c. 2 Regis Hen. quinti.

Oxford.

Oxford.

In the Twenty fifth of Henry the Sixth, for a Parlement to be holden at Cambridge, Johannes North Major Villæ Oxon. & Johannes Barton, & Thomas Wymond Ballivi ac tota Communitas dictæ Villæ eligerunt Thomam Dagfield & Robertum Watford Combургenses suos, personas idoneos & discretos ad comparandum, &c. John North Mayor of the Town of Oxford, and John Barton and Thomas Wymond, and the whole Community of the said Town chose Thomas Dagfield and Robert Watford their Fellow-Burgesses, fit and discreet Persons to appear, &c. In cujus rei Testimonium hiis Indenturis tam Sigillum Dictorum Majoris Ballivorum & dictæ Communitatis, quam Sigillum Officii Vicecomitis Oxon. est appensum.

A

The later Return explains the former, and shews that the *Communitas Burgensium Villæ*, and *Communitas Villæ*, was the same.

B

Oxford.

In the Seventh of Edward the Fourth, the Return was thus, *Præsens Billa indentata facta, &c. Testatur quod Richardus Bustrad & Thomas Halman Ballivi Burgi Oxon, & Combургenses Burgi prædicti ex unanimi assensu & consensu eligerunt Willielmum Bedston & Willielmum Dayvile Burgenses essendi ad Parlamentum, &c.* The present Bill indented made, &c. Witnesseth that Richard Bustrad and Thomas Halman Bailiffs of the Burgh of Oxford, and their Fellow-Burgesses of the said Burgh, by one assent and consent chose William Bedston and William Dayvile Burgesses to be at the Parlement, &c. In cujus rei Testimonium *Commune Sigillum* apposuerunt, &c. In Witness whereof they put to the Common Seal, &c.

C

Bailiffs and Fellow-Burgesses the same with Bailiffs, and Community or Commonalty.

It is not to be otherwise thought, but the Bailiffs and Fellow-Burgesses were the same persons in this Return, with the Bailiffs and Community of the Town of Oxford in the others, and that the Election was now made as formerly, notwithstanding the different expressions, and Clerkship of the Return; and that these Combургenses, Fellow Burgesses, were of the same Rank and Order, with the Mayor, Bailiffs and Aldermen, before they had been chosen and promoted by, and out of their Fellow Burgesses, and were not of the most ordinary and poor sort of Burgesses or Freemen, who never were ordinarily or regularly of the Community or Common Council of any Town or Burgh.

D

To confirm what hath been last said, I shall produce the Returns of Wallingford in the Eleventh of Henry the Fourth, and Fifth of Henry the Fifth.

E

Return. Brev. Parl. 11 Hen. 4. In Prym's Brev. Parlamentar. Rediviva, p. 288. Wallingford.

Viso Breve Domini Regis nos Johannes Derby Major Burgi Wallingford, & omnes ejusdem Burgi Combургenses, Scrutinio veritatis eligimus, & ordinavimus Johannem Cotterel, & Willielmum Cotterel, nostros Burgenses in peritia abiles, & honestos procuratores ad Westmonasterium ad Parlamentum Domini Regis, ipsis conferentes nostram plenariam potestatem ad Omnia & Singula ibidem legalia facienda, & in Testimonium Ordinationis & Electionis præfatarum, nos ante dicti Major, & præfati Burgi Combургenses huic Indenturæ secundum dicti Brevis exigentiam Sigilla nostra apposuimus. Sicut patet in Scriptura inferius nominatim.

F

Johannes Derby, Willielmus Arnegat, Thomas Swallwyke, Rogerus Baker, Willielmus Morgan, Johannes Culham, Willielmus Essex, Johannes Payable, Robertus Colfill, Galfridus Littell, Johannes Breewood, Robertus Dessont, Johannes Hert. The English of which runs thus:

A Having seen the Kings Writ; we *John Derby*, Mayor of the Burgh of *Wallingford*, and all the *Fellow-Burgesses* of the same Burgh, have by true scrutiny chosen and appointed *John Cotterell* and *William Cotterell*, our skilful Burgesses, and honest *Procurators* in the Parle-
ment of the Lord the King at *Westminster*, conferring upon them our full Power, to do there all and singular Legal Things; And in witness of the Appointment and Ordination aforesaid, we the foresaid Mayor and Fellow-Burgesses of the foresaid Burgh, according to the Exigency or Command of the said Writ, have put to our Seals to this Indenture, as it doth appear here underwritten Name by Name.

B *John Derby, William Arnegat, Thomas Swallwyke, Roger Baker, William Morgan, John Culham, William Essex, John Payable, Robert Colfill, Geoffrey Little, John Breewood, Robert Dessont, John Hert.* We see here the *Omnes Combургenses ejusdem Burgi*, all the Fellow-Burgesses of the Burgh of *Wallingford* were then but Twelve, and it may easily be believed, That no Man can think, but that these Twelve, with the Mayor, were the Community, or Governing part
C of the Town, or at least the more part of it.

The other Return in the 5th of Hen. the 5th, runs thus: *Viso Breve Wallingford, ibid.*
Domini Regis nos Johannes Derby, Willielmus Arnyat, Johannes Chalmer, Galfridus Little, Thomas Swalewit, Ricardus Algate, Johannes Denby, cum assensu & consensu omnium Combургensium nostrorum, Elegimus & Ordinavimus Johannem Cotterel, & Johannem Derby, nostros Combургenses perrecturos ad Parlementum Domini Regis ad certum diem & locum in Breve contentos. Ad quam Ordinationem & Electionem, illi qui ejusmodi Electioni interfuerunt sigilla sua apposuerunt.

D Having seen the Writ of our Lord the King, we *John Derby, William Arnegat, John Chalym, Geoffrey Little, Thomas Swalewit, Richard Algate, John Benby*, with the consent and assent of all our Fellow-Burgesses, have chosen and appointed *John Cotterel* and *John Derby*, our Fellow-Burgesses, to go to the Parle-
ment of our Lord the King, at the day and place contained in the Writ. To which Election and
E Appointment, those which were present at the Election put to their Seals.

By this second Election it is manifest, That the *Fellow-Burgesses*, or the absent our *Fellow-Burgesses*, were equal in their ordinary Quality to *John Derby*, who was, or had been then Mayor of the Town, and to *William Arnegat*, and others, who doubtless were Aldermen or chief Burgesses of the same, and not Burgesses of the lower Rank.

F In the Return of the Writ for *Wallingford* in the 7th. of Edward the Fourth, 'tis thus: *Hæc Billa Indentata, &c. Testatur quod Henricus Glasyer, & Johan. Medowys Ballivi Burgi de Wallingford & Combургenses Burgi prædicti ex unanimi assensu & consensu eligerunt Johannem Colynggrugge & Robertum Hoptoik Burgenses essendi ad Parlementum Domini Regis, &c. In cujus Rei Testimonium Sigillum Commune apposuerunt.* Wallingford.

Here

Here in this indented Bill of Return 'tis said the Bailiffs of the Burgh of *Wallingford* and the Fellow-Burgesses made the Election, in witness whereof they put the *Common Seal* of the Burgh to this Bill; whereas in the former every one set his particular Seal to the Returns. Now who they were that had the disposal, ordering, and directing of the use of the *Common Seal* of any Burgh, see hereafter in the Observations upon the Return for *Windsor*, in the same 7th year of this King.

A

Helston.

In the Return of *Helston* in *Cornwal*, in the 7th of Edward the Fourth, the words are these: *Hac Indentura facta apud Helston-Burgh, &c. inter Johannem Colshill Militem Vicecomitem, &c. ex parte una, & Ricardum Lanargh Majorem Burgi predicti, Johannem Emmont, & Johannem Harry Ricchowe, Ballivos ejusdem Burgi & Henricum Gellyot, & omnes alios Combургenses suos Burgi predicti ex parte altera Testatur. Quod iidem Ricardus, Johannes Emmont, Ricardus Harry Ricchowe, Henricus, & omnes alii Combургenses sui unanimi assensu & consensu, &c. Eligerunt Edwardum Gower & Willielmum Stavely, &c.*

B

This Indenture made at *Helston-Burgh, &c.* between John Colshill Knight, Sheriff, &c. on the one part, and Richard Lanargh, Mayor of the Burgh aforesaid, John Emmont, and John Harry Ricchowe, Bailiffs of the same Burgh, and Henry Gellyot, and all other their Fellow-Burgesses of the Burgh aforesaid, on the other part, witnesseth, That the same Richard, John Emmont, Richard Harry Ricchowe, Henry, and all other their Fellow-Burgesses, by their unanimous assent and consent, &c. chose Edward Gower and William Stavely, &c.

C

Here the Combургenses, or Fellow-Burgesses of this Town, were in their ordinary value and esteem, Equals to the Mayor and Bailiffs, as being their Fellow-Burgesses; so that 'tis not hard to believe they were the Community, or Governing part of the Burgh.

D

Windsor.

In the 25th of Henry the Sixth, the Return for *Windsor* was thus: *Hac Indentura facta, &c. Testatur quod Major & Communitas Burgensium Burgi de Nova Windfore eligimus & nominavimus de Communi Consilio nostro Rogerum Fasnam, & Rogerum Scherman dicti Burgi Burgenses ad comparandum, &c. In quorum Testimonium Sigillum Commune omnium & singulorum Burgensium, & Communitatis predictae * habentium Electionem interessentium presentibus est appensum. Dat. apud Windfore, &c. presentibus Johanne Avelyn Majore Burgi predicti, Willielmo Scherman, Willielmo Trowe, Rogero Weyte, Johanne Notewey Bailivis, Johanne Bethewood, Thoma Swan, Johanne Ruwelond, Thoma Pers, Ricardo Bernard, Constabulariis & aliis.*

E

Here we find the Parleмент Burgesses of New *Windsor* chosen by the Mayor and Community of the Burgesses of that Burgh. In witness whereof, the *Common Seal* of all and singular Burgesses, and of the Community aforesaid, which had *Voices* in the Election, was affixed to the Indenture. Dated, &c. in the presence of John Avelin Mayor, William Scherman, William Trowe, Roger Weyte, and John Notewaye Bailiffs, John Bethewood, Thomas Swan, John Ruwelond, Thomas Pers, Richard Bernard Constables, and others.

F

*

But

* In the Record 'tis habemus Electionem.

But in the Seventh of Edward the Fourth, about Twenty four years afterward, the Return is much different, *Præsens Billa indentata facta, &c. Testatur quod Johannes Scot, & Willielmus Kemsale Ballivi Burgi de Windfore, & Comburgenses Burgi prædicti eligerunt Willielmum Evinton & Henricum Franceys Burgenses essendi ad Parlementum, &c. In cujus rei Testimonium Sigillum Commune apposuerunt, id est, Ballivi, & Comburgenses, Sigillum apposuerunt.*

Windfore.

A

The *Communitas Burgenſium*, in the former Return, and the *Comburgenses* in the later were the same Body of Men ; that is, those with the chief Officers made the governing part of the Burgh, who in most, if not all, Corporations have the Common Seal at their disposing, and by their only consent, it is to be affixed to any Writing. See the Returns for Oxford, in the Second of Henry the Fifth, and 25th of Henry the Sixth, here before mentioned, for the clearing of this matter.

B

In the same 25th of Henry the Sixth, the Return was the same for Reding. *Hæc Indentura, &c. Testatur, quod nos Major & Communitas Burgi de Redynge ordinavimus eligimus, & nominavimus de Comuni Consilio nostro Simon Kent & David Gower dicti Burgi Burgenſes ad comparandum, &c. In quorum Testimonium Sigillum Commune omnium & singulorum Burgenſium & Communitatis prædictæ * habentium Electionem interessentium præsentibus est appensum. Dat. apud Reding, &c. Præsentibus Johanne Sawyer Majore Burgi prædicti, Roberto Morys, Willielmo Stapper, Willielmo Stapper, Edwardo Linacre, Johanne West, Thoma Goldoure Constabulariis Ricardo Farle, Bartholom. At More Ballivis, & aliis.*

Reding.

C

* In the Record 'tis, Habemus Electionem.

So in the same 7th year of Edward the 4th, the words of the Return were the same, except the Names. *Præsens Billa indentata, &c. Testatur quod Willielmus Bluet & Johannes Brode Ballivi Burgi de Reddinge & Comburgenses Burgi prædicti ex unanimi assensu & consensu eligerunt Johannem Bukke & Johannem Upston Burgenſes essendi ad Parlementum Domini Regis, &c. In cujus Rei Testimonium sigillum commune præsentibus apposuerunt.* There needs no other Observation here, than what was made upon the foregoing Returns for Windsor in the same years.

D

Reding.

E

The Return for Len in Norff. Seventh of Edward the Fourth was, *Major & Communitas eligerunt Henricum Bermingham & Willielmum Pilton Burgenſes Villæ sive Burgi Len, &c. In the Twelfth of Edward the Fourth, it was the same, in the 17th, it was Major & Burgenſes pro se, & Communitate eligerunt, &c.*

Len.

F

So for Great Tarmouth in that County, for the same year. *Ballivi & Communitas Villæ Magnæ Jenemuthe eligerunt Johan. Ruß, & Johan. Tymperley ad Essend. ad Parlementum, &c. In the 12th of this King it was, Ballivi de Comuni assensu Villæ eligerunt, &c. In the 17th of the same King it was, Ballivi & Communitas unanimi assensu eligerunt, &c. The meaning and intent of the Returns was the same.*

Tarmouth.

In the 12th of Edward the Fourth, *Major & Communitas unanimi assensu & consensu eligerunt Johannem Beynton & Willielmum Abury Cives*

Wells.

Cives Civitatis Wellensis ad interessend. in proximo Parlamento apud Westmunst. &c. As by the Return for Wells in Sommerfet-Shire, for that year appears and the like Return changing the Names is in the 17th year of that King.

Bridport.

In the Return for Brideport 17th of Edward the Fourth. *Ballivi & Burgenses de Brideport per assensum & consensum totius Burgi Communitatis eligerunt Thomam Neburgh & Robertum Hill duos Burgenses, &c.*

A

Colchester.

In the Seventh of Edward the Fourth, only five Burgesses of Colchester, named in the Return, choose two Burgesses, William Forde and John Boteler in the County-Court holden at Chelmsford for the Parliament mentioned in the Writ, &c.

In the 12th and 17th of that King, the Returns were thus, *Ballivi Burgi Colchester, &c. Eligi fecerunt per majorem partem Burgenſum magis ſufficientium Johan. Wright & Johan. Boteler. Eſſend. pro Burgo illo ad Parlamentum, &c.*

B

Warwick.

In the Seventh of that King John Herthull Esq; John Fisher of Warwick, and only Ten more Named in the Indenture of Return, did in the County-Court holden at Warwick, on the Monday next before Whitsunday, choose Edward Durant and Benedict Lee, Burgesses pro Burgo Villæ Warwick, to which Indenture the Sheriff on one part and all the twelve Electors on the other part put to their Seals.

C

'Tis not said in the Return of what quality any of these Electors were, whether Mayor, Bailiffs or what others, yet it cannot be doubted, but they were of the best and most substantial Burgesses, and were at least part of, if not the whole Community, or Government of the Town.

D

In the 12th and 17th years of that King, the Burgesses were also chosen in the County Court, but not said how, or by whom, for their Names are only Indorsed on the Writ, with their Manucaptors, and likewise only mentioned in the Indenture of Return for the County. Yet, by a paralel Return, we may make a more than probable Conjecture, they were chosen by the chief Magistrate, or Magistrates, and the Community of the Town.

E

Lincoln.

For in the 15th of Edward the Second, after the Knights of the Shire Indorsed on the Kings Writ of Summons, the Citizens of Lincoln follow in the same method with their Manucaptors, and in the same Form here underwritten.

Manuceptores Henrici de Hakethorn, unius Civium Civitatis Lincoln.

F

*Johannes Fowler de Lincoln.
Adam del Marrays de eadem.*

*Manuceptores Thomæ Gamel, alterius Civium Civitatis de Lincoln.
Philippus Millays de Lincoln.
Rogerus Ingloys de eadem.*

The

The like Returns are in the Dors of the Writ for Grimsby and Stanford, and then it follows, *Et non plures Civitates seu Burgi in Comitatu Lincoln, Boston and Grantham* being omitted.

Grimsby
and Stan-
ford.

A Here is only a bare Return of the Names of the Citifens of the City of Lincoln, with their Sureties, who were to be at the Parlement to be holden at York, three Weeks after Easter, without any mention, how, or by whom chosen. Yet, by the Petition, Certificate, or Return following, which is now sewed to the Kings Writ, directed to the Sheriff of Lincoln-Shire, it appears they were Elected by the Mayor and Communalty of the City of Lincoln.

B *A tres Noble Home & Sage Sire William de Eyrminne Meire & la Comminalty de Nicole, quant quit devient & poent, D'onors & Reverences, par ceo Sire, qui nous avons Eslutz, Henry de Hakethorn, & Thomas Gamel nos Conciteyns, de venir au Parlement nostre Seigneur le Roi, par la citee de Nicole selonc le purport le Brief le dyt nostre Seigneur le Roi, & ore le dyt Thomas ne se Deggne venir pur riens que nous savoms faire, pur quoy Sire nous avons Ellutz Alayn de Hodelston en le leiu le dyt Thomas, a faire & assentir pur la Dite Citee selonc le tenure le dyt Breif, & vous Prioms Cher Sire, Sil vous plect, que le dit Hen. Et Alayn voilets Resceivire pur la Citee avant Dite. En Tesmoygnance de quelque chose a cestrez presents avoms Mis le Seal de nostre Meiretee. Don a Nicole le Seconde jour de May lan du Reign nostre Seigneur le Roi Edward que orest qui Dieu Garde. Quinszime.*

D Besides, that 'tis manifest from this Certificate and Return, that the Mayor and Communalty of the City of Lincoln, Elected these two Citifens to represent them in Parlement; there are several other things may be observed from it: As First, that Thomas Gamel one of the Citifens, though he had two Manucaptors Returned with him on the Dors of the Writ, yet would not go to the Parlement, for any thing the Mayor and Communalty of the City knew what to do. Secondly, that they without any other, or new Writ, after his Name was Returned to the Sheriff, and by him Indorsed on the Writ, and Returned with two Manucaptors for his Appearance at the Day and place appointed for the Parlement, Elected another Citisen, Alayn de Hodelston in his place, and desired Sir William Eyrminne, (then Master of the Rolls, and Keeper of the Seal, in the absence or time of indisposition of John Bishop of Norwich, then Lord Chancellor,) that he being thus Elected by them, according to the Form of the First Writ of the King, might be received with the other Citisen Henry de Hakethorn, first Elected with Gamel, as Citisen for this Parlement; upon the Mayors Seal of Office affixed to this Certificate. Thirdly, if Hodelston sate, as in all probability he did, there could not then be such fine Niceties and Punctilioes in the Return of Parlement Writs, as at this present.

F How Cirencester in Gloucester-Shire came to send Burgeses, 22 Jacobi, I know not, it sent None before that time that I can find.

In the Return for the City of Rochester, in the 17th of Edward the Fourth, the Words were very General, and these following. *Hæc Indentura facta apud Rochester, &c. Testatur quod Willielmus Mungesham Major Civitatis Rossen una cum omnibus, & Singulis Civibus, &*

Rochester.

*Communiariis ejusdem Civitatis eligerunt & nominaverint Johan. Kyrt-
ton & Will elinum Revers ad Effend. Cives pro Civitat, &c.*

The meaning whereof is, that the Mayor together with all and Singular Citifens, and Communers, that is, with all and every Citifens who was a Communer, and of the Community of the City, which was as much as to say, the whole Community of the City chose them for the *Communiarii*, or *Comminarii* of the City of London, are the Common Council Men thereof, and a Select Number of the most Worthy, and able Citifens, as appears by the Style of the Common Council in the City Books. *Commune Concilium text. in Camera Guildhall Civitatis London, &c. Coram Tali, Majore Civitatis, &c.* Then after the Names of the Aldermen present, and Sheriffs, it follows, *Nec non Majore parte Communariorum dictæ Civitatis in Communi Concilio tunc & ibidem assemblat*, and it cannot be doubted but the *Commoners* of the City of Rochester were Persons of the same Condition.

Bath and
Bridge-
water.

In the 12th and 17th years of Edward the Fourth. The Returns of Bath and Bridgewater in Sommerset-Shire, are thus Penned. *Hæc Indentura, &c. Testatur quod Cives Civitatis Bathon. Ex unanimi assensu eligerunt, &c. Willielmum Haynes & Robertum Baten, &c. Ad Effend. ad Parlamentum, &c.* So for the Burgh. *Hæc Indentura, &c. Testatur quod Burgenses Burgi de Briggewater unanimi assensu elegerunt Thomam Tremayle, & Johannem Kendale, pro Burgensibus dicti Burgi ad effendum ad Parlamentum, &c.*

[1] Pryn's Brev.
Parl. Rediviva.
p. 317.

How the Elections have been made in the Burgh of Bridgewater, since the date of these Writs, and of late times, I cannot say. But in the City of Bath, they have always been made [1] only by the Mayor, Aldermen and Common Council, consisting of Thirty one Persons and no more, notwithstanding these General Words, *Cives* or *Burgenses*, or at least, *Major, Aldermanni, & Cives elegerunt*, have been in most of their Returns.

[2] Ibid. p. 313.

[3] Ibid. p. 317,
318.

[4] Ibid. p. 318.

[5] Ibid. p. 320.

In the 13th year of King Charles the Second, 1661. *Alexander Popham*, and *William Pryn* Esquires, were chosen Citifens for the City of Bath, by the Mayor, Aldermen, and Citifens as in the [2] Return, of which the whole Number that Elected them were but Twenty one Persons of the Thirty one above mentioned. There happened a Controversie about this Election, there being two Competitors [3] chosen by one Aldermen, Five Common Council Men, and Thirty two Freeman, the question before the Committee of Privileges, and the Parlemtent was, [4] whether all the *Freemen* and *Citifens* of Bath had, and ought to have *Voices* in the Election of *Citifens* to serve in Parlemtent, or only the Mayor, Aldermen, and Common Council of the City. That the choice had been always made by the later was clearly proved.

The principal matter then [5] insisted upon by the Competitors Counsel, was, that the Elections were made in the Name of the Mayor, Aldermen, and Citifens of Bath, which Word *Citifens*, must necessarily, and of Common Right be intended of all the *Citifens*, and *Freemen* of the City, who are *Citifens*, and not of the *Citifens* only, that are *Common Council Men*.

To this it was, or might have been answered, That *Knights* of the *Shire* are said to be *chosen* by the *County*, or the whole *Community* of the *County*, and yet *those Words* do not extend to all the *Inhabitants* of the *County*, though never so Rich, for *Tradesmen*, and others whose *Estates* are in *Money* or *Goods*, nor *Copyholders*, or *Leaseholders* have any *Voice* in such *Elections*. And the *Commons* assembled in
 A Parleiment, are usually styled the *Commonalty* of the *Realm*, nay, all the *Commons* of the *Realm*, as in the *Stat. of Provisors*, 25 *Edward* the Third, and others; yet are a *Select Number* of *Persons*, *Elected*, *Intrusted*, and *Authorized* not by half the *Inhabitants* of *England*. So that though the Words *Cives & Burgenses* may in some *Cases*, and in their full *Latitude*, extend to all *Citizens*, *Burgesses*, or *Freemen*, and *Inhabitants* also of *Cities* and *Burghs*, yet in many others,
 B and most frequently in this particular case of *Electors*, they are restrained to some *Select Number* of *Citizens* and *Burgesses*, or to the *Chief Magistrates*, and *Common Council*. Whoever desires further satisfaction in this point, may peruse Mr. *Pryn's Brevia Parliamentaria Rediviva*, from page 320 to page 328.

In several *Counties* the *Citizens* and *Burgesses* were *chosen* in the *County Courts* with the *Knights*, on the day of the *Knights Election* in the same *Court*, and joyntly Returned in one *Indenture* especially before the *Stat. of the 23 of Henry the Sixth*, and in some after that;
 C there were commonly sent four or five *Citizens* or *Burgesses* from the *Respective Cities*, or *Burghs*, whereof the *Mayor*, or *Chief Magistrate* was usually one, to the *County Court*. *Qui de assensu totius Communitatis, Civitatis vel Burgi eligerunt, &c.* Who by assent of the whole *Community* of the *City* or *Burgh*, from which they were sent, did choose *Citizens* and *Burgesses*, who gave them full and sufficient
 D Power for themselves, and the *Community* of the *Cities* and *Burghs*, to do and consent to such things, as by *Common Council* should be ordained. One Example of these Returns may be seen in the * *Appendix* which was made for *Sommerfet-Shire*, in the Second of *Henry* the Fifth, and the like is upon Record for *Dorset-Shire*, in the same year; there is also in that year one for *Wilt-Shire*, though not in the very same Form, for which see the * *Appendix* for *Devon-Shire* in the 27th of *Henry* the Sixth, for *Cambridge* and *Huntington*, *Warwick*, and *Kent* and other *Counties* and *Shires*, in other years.

Citizens and Burgesses chosen in County Courts.

* N. 14.

* N. 15.

To all these *Instances* for the greater proof, that the *Communities* of *Cities* and *Burghs* did and ought to choose, may be added, that the *Citizens* and *Burgesses* constantly had from their particular *Cities*, and *Burghs*, Power to Treat, Do and Consent for themselves, and the said *Communities*, according to the Tenor of all Writs, in all times, and those, for whom they were to Treat, Do and Consent, did, or most certainly ought to send them: For the *Citizens* and *Burgesses*
 F Represented the *Cities* and *Burghs*, and were *Trustees* for them in Parleiment, as the *Community*, or *Mayor*, *Aldermen*, and *Common Council*, or the *Chief Magistrate*, and *Capital Burgesses* Represented them at home, in the *Cities*, and *Burghs* themselves, and were *Trustees* for them there. For before *Bribery*, *Meat*, and *Drink*, with *Insinuation*, and *Artifice*, prompted to the *Mean*, and *Ordinary* poor sorts of *Burgesses*, a right which anciently they never Dreamt of, there were no

contests between them and the *Communities*, or *Commonalties*, or the *Governing* part of *Cities* and *Burgesses* about the *Election* of *Citizens* and *Burgesses* to Represent them in Parleмент; seeing when they Received *Wages*, it was a *Burthen* to those that chose and sent them. And it is not easily to be imagined, *Poor Ordinary Men* would contend for a *Burthen*, or seek a *Trouble*.

Returns of
Writs as to
Form inter-
tain.

Besides, the Returns are very incertain, and different in Form, sometimes the *Names* of the *Knights*, *Citizens*, and *Burgesses* only with their *Sureties* are Returned. Sometimes they are made according to the *Tenor* of the *Writ*, but mostly according to the *Form*, *Fancy*, and *Invention* of the *Clerk* that drew them up, without any strictness of Words or design to inform posterity, Who were, or ought to be Electors. The *Writs* were commonly in the nature of a *venire facias*, and the *Cities* and *Burghs* took care only to send their *Citizens* and *Burgesses* according to the Precept, which was the *Business* of the *Government* of the places, to which the *Writs* were directed, and that was the best Judge Who was fittest to serve them; there was then no striving for *Votes*, or making *Parties* or *Factions* to be Elected.

Hitherto of the great probability, if not certainty, Who anciently were, and now ought to be the *Electors* in all *Cities* and *Burghs*, which have *Charters*, and *Free Burgesses*. But the difficulty is, Who ought to be *Electors* in such *Towns* or *Burghs*, that have neither *Charter*, *Custom*, or *Free Burgesses*, as in the case of * *Cirencester* above-mentioned.

* Fol. 60.A.B.

To this I say, First, that where there is *neither Charter*, *Custom*, or *Burgesses*, there can be no *Burgh*.

Secondly, as to this *particular Case*, I am apt to believe *Cirencester* was anciently no *Burgh*, for amongst all the *Returns* in the *Tower*, from the 26th of *Edward* the First, to the 17th of *Edward* the Fourth, there is not one for that *Town*.

Thirdly, I say, that because several *Towns* have sent *Burgesses* or Members to Parleмент, therefore to assert according to the *Vulgar Opinion*, they must be *Burghs*, or, as they call them, *Burghs* by *Prescription*, as not having *Charter* or *Burgesses*, is an *error* occasioned by want of due *Observation* and *Perusal* of *Ancient Records*.

For, no Man that I know of hath taken notice of *Tenents* in *Ancient Demeasns*, having been sent to, and having sat in Parleмент. And several of those *Towns* that sent them, were such as might have no *Charters* constituting them *Free Burghs*, and consequently had no *Free Burgesses*, for, as it hath been said and proved before, these were made such by [1] *Charters* only, and the Grant of *Royal Liberties*, by which *Cities* and *Burghs* were constituted.

[1] Here f. 47.
49. 50. and
and Append.n.
1. b.

But it will be said, that never was any *Writ* or *Summons* directed to the *Sheriffs*, to send to any *Town* of the Kings *Ancient Demeasns*, to choose and send two *Tenents* to Parleмент, as there was for *Cities*, and *Burghs*, to send *Citizens*, and *Burgesses*.

To

To this I reply, and do confels, I never did see such *Writs* or *Summons* directed to any *Sheriffs*, or *Tenents* in *Ancient Demeasns*, to send any of their own Number to *Parlement*, nor was there any need of it, for the *Representatives* of such *Towns* as were *Burghs* by *Charter*, and also the Kings *Ancient Demeasns*, Represented both the *Burgeses* and *Tenents* too, and in some places might therefore be chosen by them both.

Tenents in
Ancient De-
measns, how
and by whom
Represented.

A Secondly, when it was left to the Sheriff as hath been [2] shewn before, to direct his *Precepts* to what *Burghs*, *Towns*, or *Places* he pleased, he might send them to such *large Towns* of the Kings *Ancient Demeasns* as had a Market only by Connivence and Permission, or Charter, without the constitutive clause of a *Burgh*, or *Free Burgeses*, for it was a hard matter to distinguish such Market *Towns* from *Burghs*, which by outward appearance, in many things could not be distinguished, seeing they always paid the same *Tallages*, and *Taxes*, that *Burghs* did, they were free from [3] *Toll* all over the Kingdom, free from [4] contributing to the *Wages* of *Knights* of the *Shire*, and free from *Suit* to *Hundred*, and *County Courts*, as *Burghs* were. They only wanted *Burgh Liberties* and *Royalties*, *Free Burgeses*, a *Merchant-Gild*, or *Community* and *peculiar Officers*, which were the *Characteristicks* of a *Burgh*, and were Created and passed by *Charter*, which the *Sheriff's* might not take notice of.

[2] Here f. 52,
53, 54. &c.

[3] Register of
Writs, f. 261. b.
[4] Append.
n. 16.

C Lastly, when some *Sheriffs* might call for the *Charters*, and enquire after the *Free Burgeses* of some *Towns*, they might not find any, or be informed there was none, which sometimes might be the cause of some *Negative Returns*, that there were no more *Burghs* in such or such a *County*, than what they then Returned.

D When therefore there doth arise a dispute about *Elections*, by whom they ought to be made, in such *Towns* as have neither *Charter*, nor *Burgeses*. The Answer is ready, that they ought to be made by the *Freeholders*, such as are possessed of the *Ancient Demeasn* Lands, or those which anciently by one way or other had been in the Crown.

E From the 17th of *Edward* the Fourth, which are the last Returns of *Parlement Writs* in the *Tower*, now known, to the First of *Edward* the Sixth, the Returns are all lost; there are two Bundles in the Chappel of the Rolls in the time of *Henry* the Eighth; but not Legible. Two other Bundles in the Reign of *Edward* the Sixth, 1st and 6th. Five Bundles in Reign of *Queen Mary*. Seven in the Reign of *Queen Elizabeth*. Three in the Reign of *King James* the First, and Five in the Reign of *King Charles* the First, and no others either in the *Petty-Bag*, *Crown-Office*, or in any other known place, until the Reign of *King Charles* the Second.

Most of the
Writs and Re-
turns lost, since
the Reign of
Edw. the 4th.

F And these Returns here are not much unlike those in the *Tower*, as may appear in these few instances, being also different in most places, according to the Clerkship of those that made them.

Returns since
King Henry
the Eighth.

Cheping-Wicomb in *Buckingham-Shire*. [1] *Hec Indentura testatur, &c. Quod Major & Burgenses unanimi assensu & consensu elegerunt, &c. In cujus rei Testimonium Major & Burgenses Sigillum suum apposuerunt.*

[1] Return.
Brev. Parl. i
Ed. VI. In
Capella Rotu-
lor.
Wicomb.

For

[2] Ibid. 6 Ed.
6.

For the same Town, *Hic* [2] *Indentura testatur, &c. Quod Major, Ballivi, & Burgenses unanimi assensu elegerunt, &c. In cuius rei Testimonium Major Ballivi & Burgenses Sigillum suum apposuerunt.* The same Return in 1 *Mariae*. And the Elections of Mayor, Burgesses, and Town-Officers, were then made by a Select Number, under the Name of Mayor, Bailiffs and Burgesses, ever since, except for a few years last past, as also the Parlement Members Exclusive of the Ordinary Freemen.

A

[3] Ibid. 1.
Mariae.

Reding.

Reding in Bark-Shire. Hic [3] *Indentura Testatur, &c. Quod Major, Burgenses & Communitas Burgi, Ordinavimus, Elegimus, & nominavimus, &c. In cuius Rei Testimonium Major & Burgenses Sigillum suum Commune, &c.*

[4] Ibid. 1.
Mariae.

New

Windsor.

New Windsor, nos Major Burgenses & Communitas [4] *Nova Windsor ex unanimi assensu & consensu nostris elegimus, &c.*

B

[5] Ibid. 1.
Mariae.

Thetford.

Thetford in Norff. Hec [5] *Indentura Testatur, &c. Quod Major, Burgenses & alii homines de Communi Concilio, & congregatione dicti Burgi, una voce elegimus, confecimus, ordinavimus & in loco nostro posuimus, &c. In cuius Rei Testimonium nos Major & Burgenses Sigillum nostrum Commune apponi fecimus.* The same Return is in the First of *Elizabeth*, the Burgesses Names only excepted. Here the Mayor, Burgesses, and other Men of the Common Council, and such as used to come to Town or Burgh-Meetings, were the Electors, which agrees with the Practice at this Day.

C

The Case between Sir Joseph William-son and Mr. Heveningham at Thetford.

In the Case between Sir Joseph William-son, and Mr. Heveningham, the first chosen by the Mayor, Burgesses, and Commonalty of Thetford, the other chosen by some of the forementioned Electors, and also by the Major part of the Freemen of the Town.

D

[6] Commons Journal. Mercur. 17 Jun. 1 Jacob. 2. 1685. f. 193.

The Report of the [6] Committee of Elections to the House concerning the Election at Thetford.

Resolved, that 'tis the opinion of this Committee, that the Right of Election is in the Mayor, Burgesses, (which are Ten,) and in the Commonalty, or Common Council (which are Twenty,) amounting in the whole to Thirty one.

[7] Ibid.

Resolved, [7] that this House doth agree with the Committee, that the Right of Election is in the Mayor, Burgesses, (which are Ten,) and in the Commonalty, or Common Council, (which are Twenty,) amounting in the whole to Thirty one.

E

The House of Commons mistaken in the meaning of some indefinite expressions in the Returns of Writs.

By all these Ancient, and later Returns, but more especially if compared one with another, it is manifest, that in very many Controversies about Elections, the House of Commons have been frequently mistaken in the meaning of these indefinite expressions, Major & Cives, Major & Burgenses, Major & Communitas, or Major, Burgesses, & Communitas elegerunt, understanding thereby all Citizens, Burgesses, or Freemen in General of such Cities and Burghs, when as they were only a Select Number, which managed the Affairs and Government of those places.

F

Nay,

Nay, when or where it is said in some few Returns *Major, & omnes Burgenses, & Comminariii elegerunt*, those Words are most commonly, if not always to be understood in a *Limited* and *Restrained* Sense, which was, that the *Mayor*, and all the *Chief Burgesses*, or the *Mayor* and all such *Burgesses* (which were the same with *Aldermen*, though they wanted the Title,) and *Commoners* such as were of the *Common Council*, or ought to be at *City or Burgh Congregations or Meetings* did choose, &c. Who always were a *Select Number*, *Exclusive* of the Bulk of *Common, Ordinary, Poor Freeman, Citizens, or Burgesses* of the lowest Rank. And the *omnes Burgenses Comminariii, & alii homines Burgi*, did mostly signifie no other Persons than all the *Burgesses, Men, and Commoners*, who were or ought to be at *publick Meetings* of the *Burgh or City*, and did *transact* the usual business of the place.

Add to this, what hath been said before, concerning the great error about the *meaning and signification* of the Word *Communitas*, and that there were very few *ancient Writs and Returns* made upon them, to be seen in the *Record-Office* in the *Tower*, before Mr. *Pryn*, in the years 1660, and 1661. found so many lying confusedly amongst other *Records* in the *White Tower*, as made *Ninety Seven Bundels*, which he mentions in his *Brevia Parliamentaria Rediviva*; by which Men might have been better informed. And it will seem no great wonder to find Men *guided* only by the *Sounds of Words*, and *Byassed* by *Popularity*, to run into *Opinions* both pleasing to themselves, and the *Vulgar*, and of late years, to have *determined Controversies* about *Elections* accordingly, contrary to the most common and frequent ancient usage, in *Electing Citizens and Burgesses*, and *Tenor* of the *Returns* of *Parlement Writs* in those times.

F I N I S.

21217

A D D E N D A

To be added in Fol. 12. Letter E. after these words, *To this Town then.*

Rex tenet. Mileburn, Rex Edwardus tenuit nunquam Geldavit nec scitur quot hidae sunt ibi, Terra est L. Carnuc. &c. In hoc manerio sunt 56 Burgeses cum Mercato Reddentes, LX Sol.*

* Domesday, fol. 82. b. Col. 1.

A The King holds *Mileburn*, King Edward held it, 'twas never Taked, neither is it known how many *Hides* there are, the Arable is 50 Carucates, &c. In this Maner there are 56 Burgeses with the Marker, paying Sixty Shillings. Nothing more of this place, and its Burgeses

In * *Givelcester*, Sunt CVII Burgeses Reddentes XX Sol. Mercatum cum suis Appendicibus Redd. XI Lib.

* Ibid.

B In *Givel*, or *Ilcester*, there are 107 Burgeses, who pay Twenty Shillings, the Market with its Appendices, or what belongs to it; pays 11 Pounds. This is all to the present purpose, in the Description of this Town.

To be added in Fol. 37. Letter F. after the last Line in the Leaf.

C And it is yet more clear from the following Record in the Parliament holden at *Westminster*, in the Month of *Easter*, in the second of the same King *Edw. 2.* The Commons then delivered certain Articles of Grievances to him for Redress, whereof the Sixth Article begins thus, *Que les * Chivalers, gentz de Citez é de Burghs, é des autres Villes qui sont venuz à son Parlement per son Comaundement pur Eux & pur le people é ont petitions à Livrer por Fortz & Grievances, &c.* That is, The Knights, Men of Cities and Burghs, and of other Towns, that were come to his Parliament, by his Command, &c. Here are Knights, Citizens, Burgeses, and Men of other Towns, who came to the Parliament by the Kings Command, What were these Towns that were neither Cities, nor Burghs, if not the Kings Ancient Demeasns? Or, what were the Men that came from these Towns, if not Tenents in Ancient Demeasns? They could be no other Towns, nor other Men, than the Tenents, that were their Representatives, and with the Knights, Citisens and Burgeses, delivered the Articles of Grievances to the King.

* Claus. 3 E. 2. M. 22. Do. f.

Other Towns besides Cities and Burghs sent Representatives to Parliament.

To be added in Fol. 42. Letter E. after the words, *Die Decembris.*

E Besides the Towns above-mentioned to be found in *Domesday-Book*, in the several Counties under the Title of *Terra Regis*, the Kings Lands, that were holden of him, and were Ancient Demeasns, or his Maners; *Gildeford* in *Surrey* at the time of making the Conquerors Survey, was the Kings Land; but then no Burgh, *Domesday-Book*, f. 30. a. Col. 1. *Gaton* or *Gatton* in the same County, was the Bishop of *Bayeux* his Land, *Ibid.* f. 31. b. Col. 1. Then no Burgh; this Town Escheated or Reverted to the Crown after his Death, or perhaps before by Forfeiture, when he was Imprisoned as a Traytor by his Half-Brother King *William*, A. D. 1085. *Dorchester* in *Dorsetshire*, described by its self with its Customs, *Ibid.* f. 75. a. Col. 1. and then under the Title of *Terra Regis*, as a very great Maner only, *Ibid.* Col. 2. *Pool* in the same County is not to be found in *Domesday-Book*; 'tis an Hamlet of *Canford* or *Chenford*, which was the Kings Land, and holden of him by *Edward of Salisbury*. *Edwardus de Sarisburia tenet de Rege Chenesford, &c.* f. 80. b. Col. 1. *Corf* in the same County was the Kings Land; then no Burgh, and holden of him by *Robert Fitz-Gerold*.

The Kings Towns, and Antient Demeasns, from *Domesday-Book*.

Robertus filius Geroldi tenet de Rege Conf, &c. ibid. The Mayor of this place is chosen and sworn in the Court-Leet. *Marlave* or *Marlon* in *Buckinghamshire*, is to be found under the Title of *Terra Regina Matildis*, and so Crown-Land, but no *Burgh*, described only as a great Maner, *ibid.* f. 152. b. Col. 1. *Newton* in *Lancashire*, holden of the King, and was ancient Demeasns, then no *Burgh*, *ibid.* f. 259. b. Col. 2. f. 260. a. Col. 1.

The Kings
Towns, or an-
cient Demeasns
from other
Records.

There were also other Towns, that appear to have been the Kings Towns or Demeasns by other Records, *Old Sarum* in *Wiltshire*, or the Old Castle of *Salisbury*, was the Kings Demeasns. See Charter the 11th of *Hen. 3.* for the Foundation of the Church and City of *New Sarum*. *Excester* in *Devonshire* was the Kings City and Demeasns. *Cart.* 13 *Edm. 1.* per *inspeximus*, and here fol. 46. A. The Maner of *Christ-Church* in *Hampshire*, with the Inheritance, was conveyed to King *Ed. 1.* by *Avelin de Fortibus*, Countess of *Devonshire*, *Pat.* 21 *Ed. 1.* M. 3. The sworn Burgeses of the Baron Jury of the Court in this Town, choose two Persons, and present them to the Steward, of which he taketh one, and swears him Mayor; they also choose Parleмент-Men. *Hedon* in *Yorkshire* was passed to the same King by way of Exchange, *Claus.* 4 *Ed. 1.* M. 7. in Cedula. *Lestwithiel* in *Cornwal* was the Kings Town, *Rot. Parl.* 8 *Ed. 2.* N. 41. *Dorchester* and *Lime* in *Dorsetshire*, were the Kings Demeasn Burghs, *Rot. Parl.* 11 *Hen. 4.* N. 53. 55. *Newcastle under Line* in *Staffordshire*, and *Higham Ferrers* in *Northamptonshire*, were both the Kings Maners, *Rot. Parl.* 38 *H. 6.* N. 38. The City of *Winchester* in *Hampshire*, held of the King in Fee-Farm, paying 120 Marks per Annum, and some part of it was holden of him in Capite, *Rot. Parl.* 11 *Hen. 4.* N. 57. *Stock-Bridge* in *Hampshire*, the Parleмент-Men are Returned by the Steward of the Leet or Court-Baron. The Burgeses of *Agmondesham* in *Bucks* are chosen by the Homage in the Court-Baron: And note, That where ever the Mayor, Bayliffs and Burgeses are chosen by the Jury in a Court-Baron, or at the Leet, they were Towns in Ancient Demeasns; or where the Returns of Parleмент-Members have been, or are now made by the Lord or Lady of the Maner, as at * *Aylesbury* in *Bucks*, or their Steward. The Constable of the place, an ordinary Bayliff, or such inferior Officer. They were also Towns in Ancient Demeasns. And further, 'tis not to be doubted, but there are many small Towns, Maners and Places, now Reputed Burghs, which were not such at the making of *Domesday-Book*, or the *Conquerors Survey*, nor perhaps were they the Kings Demeasns at that time. But those Maners and Towns might have come to the Crown afterwards, by *Escheat* or *Forfeiture*, before there were any Summons issued for the choice of *Citizens* and *Burgeses*. And so the Sheriffs then (to whose * Discretion it was left to direct them) might send Precepts to such of the Kings Towns as they thought to be, or named Burghs, to send Representatives to Parleмент. Whether they were Real Burghs or not; or in stead of Burghs, might direct their Precepts upon the Writ to such of the Kings Towns, and Demeasns, as by exercising Trade, and using some *Franchises* and *Liberties* by Connivence, and under shelter of the Royal Protection, had the appearance of Burghs.

To be added in Fol. 50. Letter D. after the words, *Bailiffs of Bristol*.

And 'tis yet further evident, That *Cities* and *Burghs* maintained themselves, paid Taxes, and bare other Charges in Respect, and by Means

* In the Additions to the Appendix, N. 23. 24.

* See here from Fol. 51. to Fol. 60.

A Means of their *Franchises*, upon which the Cities and Burghs were founded, from the * Petitions of the *Citizens* and *Burgesses* to the King and his Council in Parliament, in the 46 of *Edw. 3.* in the form following: To our Lord the King, and his Noble Council, the *Citizens* of the City of *London* do shew, That they have *nothing to live upon* but their *Industry* and *Franchise*, upon which *Franchise* the said City was founded, and by reason of which *Franchise* they were wont to Travail by Land and by Sea in divers Countries for their profit. By which Travail they used to bring divers Merchandises, to the great common profit of the whole Realm of *England*, to the great Aid and Maintenance of the said City, Sustainance and Increase of the Navy of the said Land: And of late their *Franchises* are taken from them against the Grant of our said Noble Lord the King, and his Noble Progenitors, sealed with their Seals, and against the Great Charter, to the great Destruction as well of the said City, common Damage of the Land, as also of the Navy. Whereupon they pray, That the King would please to have regard, and take notice, the said City was founded upon the said *Franchises*, without which they could not maintain the City, nor bear the Taxes and other Charges as they were wont to do: For which cause they pray they may have their *Franchises* according to the Grant of the King, and his Noble Progenitors, and the Great Charter; and that all such Grants, and Confirmations of *Franchises* may be made to all other Cities, and Burghs of the Realm.

* In the Additions to the Append. N. 25

The City of London founded upon the *Franchise* granted by the Kings of England and their Progenitors.

To be added in Fol. 75. Letter D. after the words, *In other Years.*

C Burgesses for the Town of Cambridge were chosen in the County-Court in the 2d. of *Hen. 5.* in 4. 6. 11. 14. and 29 *Hen. 6.* and 17 *Edw. 4.* In the 2d. of *Hen. 5.* they were chosen in the County-Court by * Twelve Electors only, *ex assensu totius Communitatis Burgi*, by assent of the whole Community of the Burgh. And from this time to the 22d. of *Edw. 4.* being the last Returns in the Tower, there are but Eight Electors mentioned in the Returns, whether the Election was made in the County or Town-Court. In the 27th of *Hen. 6.* the Election was made * by only Eight Electors, for the Community of the Burgh, according to the Custom of the Liberty of the Town. In the 29th of the same King, the Election was made in the County-Court, * by Eight Electors only, according to the Custom of the Town, who are named in both Returns.

Cambridge.

* Ibid. N. 26. But 12 Electors.

Or Eight according to the Custom of the Town.

* Ibid. N. 27. * Ibid. N. 28.

D In the 7th and 12th of *Edw. 4.* the Elections for *Huntington* were made by 12 Persons only, there being no Assent or Authority of or from others mentioned in the Returns. The like were made by 12 Persons only for *Wicomb* in *Buckinghamshire*, in the 12th and 17th of the same King; and such as will search the Returns in the Tower, may find very many such Elections, made constantly by a certain Number of Electors, in these and other Towns, and even in such, where of late (since the 22d. of King *James the First*) Popular Elections have sometimes prevailed.

Huntington & Wicomb. 12 Persons only Electors.

To be added in Fol. 59. Letter A. after the words, *May be chosen.*

E The Town of *Hertford* sent Burgesses to Parlemt 18 times; see Bundles of Writs and Returns in the Tower, and *Pryn's* Fourth part of a Brief Register of Parlemt Writs, p. 1002. but since the 7th of *Hen. 5.* for the space of 20 Years, sent none, until the 22d. of King *James the First*, notwithstanding it was the Shire-Town. By an Extent of the Castle and Town of *Hertford*, with their Appurtenances, made on Saturday in Easter-Week, in the 5th of *Edw. 3.* and still in * being under Seal, it appears, the Castle of *Hertford* and the Burgh there, were holden in Capite of the King. * *Juratores dicunt super Sacramentum suum, quod Castrum de Hertford & Burgus ibidem tenentur in Capite de Domino Rege, &c.* The Bayliff, and Under-Bayliff, and all other Officers, were chosen every Year by the Community of the Town in the next Court after *Michaelmas*, and the Chief Bayliff was allowed by the King Twenty Shillings every Year for a Gown or Livery. The Porter of the Castle was put in by the King, and had of him for his Wages Two Pence a Day. * *Juratores dicunt, quod Ballivus Villæ de Hertford debet Eligi per Communitatem Ville, & facient Electionem suam quolibet Anno in proxima curia post Festum Sancti Michaelis tam de Ballivo, & sub-Ballivo, quam de omnibus aliis officiariis & Capitalis Ballivus habet de Domino Rege per Annum 1 l. pro Roba sua, &c.*

Hertford.

* In Archivis Villæ.

* In Extent. ib

The Castle and Burgh of Hertford, holden in Capite of the King.

* Ibid.

To

To be added in Fol. 78. Letter B. after the words, *Nostri Elegimus, &c.*

New-Windsor.

* In Archivis Villæ.

* Ibid.

A Community, or Commonalty Corporate.

* Lit. Pat. 2 Ed. 4. Decimo die Martii per Inspeximus.

A Town with a Trading Gild, or Society, was a Burgh.

* Pat. 1 Jac. 1. in Capella Rot. & Addit. to the Append. N. 29.

* In the Bundle of Returns for that Year, in the Chapel of the Rolls.

* Ibid.

What this Community or Commonalty of New-Windsor was, may be seen in the Charter of * Edward the Fourth, Inrolled in the Exchequer in Easter-Term, in the 7th of that King, Roll the 4th, with the Kings Remembrancer, and in the 10th Year of the same King, in the same Term, Roll the 5th, with the Treasurer's Remembrancer. By which Charter 'tis plain, That the Corporation, or Body Politick, and the Community, was the same thing. * *Concedimus Edmundo Purnunc Majori, necnon Tho. Sherman & Willielmo Stephen Ballivis dictæ Villæ de Nova Windsor & Burgensibus, & Inhabitantibus ejusdem Villæ, quod ipsi Burgenses, & Inhabitantes, (i.e. the Burgesses Resident, that dwelt in the Town) de Cætero sint in perpetuum unum Corpus in Re & Nomine, & Una Communitas perpetua Corporata de uno Majore & Duobus Ballivis, ac Burgensibus ejusdem Villæ, ipsique Major Ballivi & Burgenses successionem habeant perpetuam, & quod ipsi Major Ballivi, & Burgenses & Successores sui per nomine Majoris, Ballivorum, & Burgensium de Nova Windsor placitare & implacitari, &c.* And that these Burgesses were a select Number of the chief Inhabitants of the Town, it appears by the Town-Books, in which the Transactions of the Burgh and Corporation have been noted, and from time to time set down. These Burgesses at first were the Kings Tenents, as appears by another * Charter of Edw. 4. *Sciatis, Quod cum Edwardus nuper Rex Angliæ primus post Conquestum, concesserit pro se & hæredibus suis, Quod Villa sua de Nova Windsor deinceps Liber Burgus Esset, & quod probi homines sui ejusdem Villæ & eorum Hæredes, & Successores, Liberi Burgenses Essent, & Gildam Mercatoriam haberent, &c.*

This Trading Gild, Fellowship, Community or Fraternity, was in those times, with the Privileges belonging to it, the very Constitution of a Burgh, and was always a select Number, distributed into several Ranks and Orders, and the whole Fellowship or Fraternity of the Gild of New-Windsor, as it had been formerly Established according to the Ancient Usage, and Custom of the Town, is explained and confirmed in the * Charter of King James the First, wherein the Old Name of the Burgh, or Corporation is continued, viz. the Mayor, Bayliffs and Burgesses of New-Windsor, &c. And 28, or not above 30, of the best, and most Worthy Inhabitants of the Burgh are appointed to be the Number of the Fraternity of the Gild-Hall of the Burgh, and to be the Common Council of the Burgh, and assistent to the Mayor and Bayliffs of the same Burgh, in all Matters and Things touching the same. Of these 28 or 30 Brethren, Thirteen were to be called, Fellows or Benchers of the Guild-Hall; and of them Thirteen, Ten were to be called, Aldermen or Chief Benchers, out of which the Mayor is to be chosen, and the two Bayliffs out of the Brethren of the Burgh. Here we have the Mystery of the Community or Corporation unfolded, That it consisted of a Mayor, Two Bayliffs, and 28 or 30 Brethren of the Guild-Hall, who were the Mayor, Bayliffs and Burgesses, according to the Ancient Usage and Custom of the Town. And if the Ancient Charters, Writings and Monuments of all Burghs, or pretended Burghs in England, were inspected, judiciously examined, and compared one with another, the meaning of the word *Communitas*, Community, (or, as vulgarly translated) the Commonalty, would be as clear and perspicuous, as it is in this place of Windsor, or any other City or Burgh.

The Indenture of Return for Parlement-Burgesses in the 15th of King Charles the First, 1639. runs thus, * This Indenture made the 6th Day of March, in the 15th Year of King Charles 1639. between the Mayor, Bayliffs and Burgesses of the Burgh of New-Windsor on the one part, and George Purefey Esq; High Sheriff of the County of Berks, on the other part, Witnesseth, That the said Mayor, Bayliffs and Burgesses, with their mutual free Assent and Consent, have Elected and Chosen Sir Arthur Ingram, and Sir Richard Harison, Burgesses, &c. The like Return is in the * 39th of Queen Elizabeth, and before; and all the Reign of King James the First, and King Charles the First, until the Year 1641. &c.



An Advertisement.

AFTER the Additions were Printed in this Treatise Fol. 81, 82, 83, 84. it was thought fit to make this also, which is to be inserted in Fol. 24. C. between the first and second Paragraph, and before the words, *These Communities had their Seals, &c.*

C But if all this should not be thought sufficient to prove, That the **Commonalties or Communities** of *Burghs*, or other *Societies*, were a **Select Number**, and *different* from all other **Common Burgessees**, such as are not satisfied may peruse the following Statutes.

D In * the 2d and 3d of Edw. 6. C. 36. *The Lords and Commons did by Authority of that Parliament Give and Grant, &c. To be Rated, Taxed, Levied, and Gathered as well of all and every Person, as were, or thereafter should be, his Graces Natural Subjects, as of all and every Fraternity, Guild, Corporation, Mystery, Brotherhood, Company or Communality, Corporate or not Corporate, within the Realm of England, Wales, and other the Kings Dominions, &c.* And so in the 7th of the same King, C. 12. The same Words are in the 2d and 3d of Philip and Mary, C. 23. In the 5th of Queen Eliz. C. 27. And further be it Enacted by the Authority aforesaid, That every Person born under the Queens Obedience, and every Corporation, Fraternity, Guild, Mystery, Brotherhood and Communality, Corporate or not Corporate, for every Pound of every of the same Person, and every Corporation, Fraternity, Guild, Mystery, Brotherhood and Communality, Corporate or not Corporate, or any other to his or their use, hath in Fee-Simple, Fee-Tail, for Term of Life, Term of Years, by Execution, Wardship, or by Copy of Court-Roll, of and in any Honors, Castles, Mannors, Lands, Tenements, Revis, Services, Hereditaments, Annuities, Fees, Corrodies, or other Yearly Profits, of the Yearly Value of Twenty Shillings, and so upwards, shall pay to and for the first Payment of the said Subsidy Two Shillings and Eight Pence of and for every Pound, &c.

* See Stat. at Large.

The same Words are in the 18th of Eliz. C. 23. and in the 27th of Eliz. C. 29. Also 29th of Eliz. C. 8. And 43d of Eliz. C. 18.

All these *Words* of **Fraternity, Guild, Corporation, Mystery, Brotherhood, Company and Communality**, Coporate by Charter, or voluntarily Embodied or Uni.ed (by permission) amongst themselves without one, are *Terms* almost *Identical*, and *Expressive* of one another; and are such as in those Times were frequently used, to denote a *Select Number* of Men joyned together in *Mutual Society* and *Fellowship*, for *Transacting* the Common Business of a *Greater Number* that had *Dependence* on that *Society* or *Fellowship*, and of all the *Ordinary* and *General Members* of the same. And this *Select Number* is in all these *Statutes*, *Expressed* and *Notified*, by one, or more, or all the *Words* above-mentioned, in *Contra-Distinction* to the *Common, Ordinary, and General Members* of such **Fraternities, Guilds, Corporations, Mysteries, Brotherhoods, Companies and Communalties**. For the **Subsidies** Granted by all these *Statutes*, were to be *Rated, Taxed, Levied* and *Gathered* as well of *all, and every Person* that were the *Kings Subjects*, as of *all and every Fraternity, Guild, Communality, &c.* So that **Fraternities, Guilds and Communities**, must be different things, from single and particular Persons, or all the *Kings Subjects* in general. And from the *Common and Ordinary Members* of such *Societies*, who could not be there *meant, or understood* by *Communality, or Commonalties*, as having no *Honors, Castles, Mansions, Lands, Tenements, or Hereditaments Vested in them*; nor does One of Twenty of them possess or enjoy any such things. Therefore seeing **Commonalties** had such *Possessions*, they must be **Select Numbers, and Body's** of Men who were by Law capable of *Taking, Receiving, and being Possessed* of them. And from hence, as well as from what hath been said before, 'tis manifest beyond Contradiction, That the **Commonalties**, of *Cities and Burghs*, and other *Societies or Fellowships*, were the *Magistrates and Governors*, and all such as with *them* had the *Transaction* of all Affairs appertaining to them, and not the *Common, Ordinary, or Inferior Burghesses*, who always were under the *Government, and Direction* of such **Communities, or Commonalties**.



A

SUPPLEMENT

TO THE

Preceding Advertisement;

And to be read with, and after it.

C

D

E

AD Petitionem **Comunitatis** Villæ de *Huntingdon* & *Simonis de Broughton* Magistri *Hospitalis Sancti Johannis de Huntingdon* suggerentium Regi Quod licet idem Simon jam per viginti Annos & amplius *Magister* prædicti *Hospitalis* Extitisset & ad *Episcopum* istius loci per **Comunitatem** prædictam præsentatus, & ad ipsorum *Præsentationem* in dicto *Hospitali* prout *Prædecessores ejusdem* præsentati semper hætenus extiterunt *Institutus* fuisset; *Willielmus* de *Langelee* nihilominus Domino *Edwardo* Regi nunc, dedit intelligi non est Diu quod dictum *Hospitale* vacabat. Quodq; *Præsentatio* ejusdem ad *Regem* pertinuit, per quod idem *Willielmus* de *Langelee* versus **Comunitatem**, & *Magistrum* prædictos diversa *Brevia* de Quare Impedit, ad certos Dies coram *Justiciariis Domini Regis* de Banco returnabilia; Nomine Regio Impetravit, ad quos Dies idem *Willielmus* de *Langelee* usq; finem Terminum, ut ipsos **Comunitatem** & *Magistrum* vexaret inde indebitè & gravaret, se voluntarie & maliciose absentavit, in ipsorum **Comunitatis** & *Magistri* Damnum, &c. Unde petunt, &c.

Responsum est per Concilium.

F

Mandetur *Justiciariis* coram quibus Loquela ista pendet quod procedant indilate, eo non obstante quod *Willielmus* de *Langelee* qui sequitur pro Rege se per Maliciam sic absentat, quia Rex non vult quod per hujusmodi Maliciam, *Justicia* deferatur.

Rot. Parl. 8.
Ed. 2, n. 235.
Pro Comuni-
tate & Magi-
stro Hospitalis
Sancti Johannis
de Hunting-
don.

Ibm.

For the Co-
monalty and
Master of the
Hospital of
St. John in
Huntingdon.

Upon the Petition of the *Comunity*, or *Comonalty* of the Town of *Huntingdon*, and *Simon de Broughton*, Master of the Hospital of *St. John of Huntingdon*, suggesting to the King, That altho' the said *Simon* had been Master of the said Hospital above twenty Years,

Years, and was presented by the said *Comonalty* to the Bishop of the Diocese, and instituted to the said Hospital according to their Presentation, as his Predecessors always had been, Nevertheless *William* of *Langele* informed the Lord *Edward* that now is *King*, That the said Hospital was not long since void, and that the Presentation to the same belonged to him. By which the same *William* obtained in the King's Name divers Writs of *Quare Impedit* against the *Comonalty*, &c. returnable at certain Days before the *Justices* of Common Pleas, at which Days, the same *William* of *Langele* until the end of the Term willingly and maliciously absented himself, That he might thereby unduly vex and disturb the said *Comonalty* and Master, to their Damage, &c. Whence they begg, &c.

To which Petition 'twas answered by the Council.

Let the Justices, before whom the Suit is depending, be commanded to proceed without Delay, notwithstanding *William de Langele*, who sues for the King, by Malice absents himself, because the King will not, That Justice should be delayed, by such Malice.

No man I think can affirm otherwise, Then that this *Comonalty* was the *Corporation*, the *Body politic*, or *Governing part*, of the Burgh or Town of *Huntington*, that presented to the Bishop the Master of the Hospital to be Instituted, that was sued by Writ of *Quare Impedit* for so doing: For no number of *Ordinary Freemen*, as such only, could have a *Capacity* to do such Acts, and to be sued for doing them; nor the *Herd of Common Freemen* or *Burgesses*, who in themselves never were or can be qualified for any such Purposes, as *Distinct* from, and not *Members* of the *Body politic* or *Governing part* of the Town.

To this ancient Record I shall subjoin several *modern Charters*, by which *Burghs* have been erected, that prove the meaning of the Word *Comunitie* or *Comonalty*, and who were the *Comonalty* or *Comunitie* in *Burghs* or *Corporations*.

The first shall be that of *Banbury*, Pat. 1. *Mariæ*, parte 10. in the Rolls Chappel. She granted *Inhabitantibus Villa de Banbury*, quod dicta Villa de Banbury de cætero sit & erit liber **Burgus** corporatus; in re, facto, & nomine, in perpetuum; De Uno Balivo, Duodecim Aldermannis, ac Duodecim Burgensibus, per Nomen Ballivi, Aldermannorum & Burgensium Burgi & Parochiæ de Banbury. Ac quod Ballivus, Aldermani & Burgeneses Burgi & Parochiæ prædictorum sint & erunt **Corpus** corporatum & politicum, & una **Comunitas** perpetua de se, in re, facto, & nomine, in perpetuum, per Nomen Ballivi, Aldermannorum, & Burgensium Burgi prædicti & Parochiæ de Banbury, habeantq; Successionem perpetuam, Ipsosq; Ballivum, Aldermannos, & Burgeneses, unum **Corpus** corporatum, & unam **Comunitatem** de se, realiter & ad plenum erigimus, facimus, ordinamus & creamus, pro Nobis, Hæredibus & Successoribus Nostris, in perpetuum per Presentes, &c. Then it follows, That the same Baylis, Aldermanni, & Capitales Burgeneses, facient

- facient & erunt ac vocabuntur *Comune Consilium Burgi prædicti*, pro omnibus rebus, materiis, causis & negotiis, *Burgum prædictum ac Regimen & Gubernationem inde tangentibus & concernentibus*. After the Erection and Constitution of the Burgh, She Grants there should be one *Burgess* to serve in *Parliament* for this Burgh, and that only the *Baylif*, *Aldermen* and *Burgesses*, should choose him. *Volumus ac pro nobis & Successoribus nostris per Præsentes concedimus & ordinamus quod sit & erit in dicto Burgo de Banbury unus Burgensis Parliamenti nostri, Heredum & Successorum nostrorum. Quodq; prædicti Ballibus, Aldermanni, & Burgenses dicti Burgi & Parochiæ de Banbury & Successores sui super Brevi nostro Successorum & Heredum nostrorum de Electione Burgensis Parliamenti eis directo, habeant & habebunt Authoritatem, Potestatem & Facultatem, eligendi & nominandi unum discretum Virum dicti Burgi, fore Burgensem Parliamenti nostri, Heredum & Successorum nostrorum, pro eodem Burgo. Eundemq; Burgensem sic electum ad onera & custagia dicti Burgi, Parochiæ, & Comunitatis, mittent ad Parliamentum nostrum, Heredum & Successorum nostrorum ubicunq; ad tunc tentum fuerit iisdem modo & forma prout in aliis Burgis Regni nostri Angliæ usitatum & consuetum fuerit. Quem quidem Burgensem sic electum & nominatum volumus interesse, & moram facere ad Parliamentum nostra & Successorum nostrorum ad onera & custagia dicti Burgi, & Parochiæ & Comunitatis ejusdem, durante tempore quo hujusmodi Parliamentum teneri contigerunt in eodem modo & forma prout alii Burgenses Parliamenti pro quibuscunq; aliis Burgis aut alio Burgo quocunq; infra dictum Regnum nostrum Angliæ faciunt seu facere consueverunt. Et qui quidem Burgensis in hujusmodi Parliamentis nostris, Heredum & Successorum nostrorum habebit vocem suam, tam affirmativam quam negativam, ceteraq; omnia & singula faciet ibidem & exequetur quæ alii Burgenses, aut alius Burgensis Parliamenti nostri, pro quibuscunq; aliis Burgis aut alio Burgo quocunq; facient aut exequantur, aut habere, facere aut exequi valeant, Ratione aut Modo quocunq;*

By this Charter 'tis very manifest, That the *Corporation*, and *Comunity* or *Comonalty* of this Burgh, were the same thing, and that the *Bayliff*, twelve *Aldermen*, and twelve *Burgesses*, who all together were the *Common Council* of the Burgh, were that *Corporation* and *Comunity* or *Comonalty*, and had only the power and authority to choose a *Burgess* or *Parliament man*.

- In the second and third of *Philip and Mary*, part. 8. the Patent by which *Higham Ferrers* in *Northamptonshire* was made a Burgh, runs thus. *Concedimus Inhabitantibus Villæ de Higham Ferrers, quod dicta Villa sive Burgus de Higham Ferrers de cætero sit & erit Liber Burgus corporatus in re, factò, & nomine, in perpetuum; de uno Majore, septem Aldermannis, & tredecem Burgensibus Burgi & Parochiæ de Higham Ferrers. Ac quod Major, Aldermanni, & Burgenses Burgi & Parochiæ prædictorum, sint & erunt Corpus corporatum & politicum, & una Comunitas perpetua, de se, in re, factò, & nomine, in perpetuum, per nomen Majoris, Aldermannorum, & Burgensium Burgi & Parochiæ de Higham Ferrers, &c. as in Banbury; and then Orders that seven of the best, most able, and discreet Inhabitants, should be called *Aldermen*, and thirteen more of the best and most able should be called*

led **Capital Burgesſes**, and that the ſaid Mayor, Aldermen, and Burgeſſes, ſhould be the *Common Council* of the Burgh and Town, to tranſact all things belonging to it; and then gives the Mayor, Aldermen and Burgeſſes only, Power and Authority to chooſe one Burgeſs for Parliament, &c. *Quodq; Major, Aldermanni, & Burgeſſes dicti Burgi, &c. habeant & habebunt Potestatem, Autoritatem & Facultatem, elegendi & nominandi unum discretum Hominem Burgi, fore Burgenſem Parlamenti, &c. ad onera & curagia dicti Burgi, Parochiæ, & Comunitatis ejusdem, &c.*

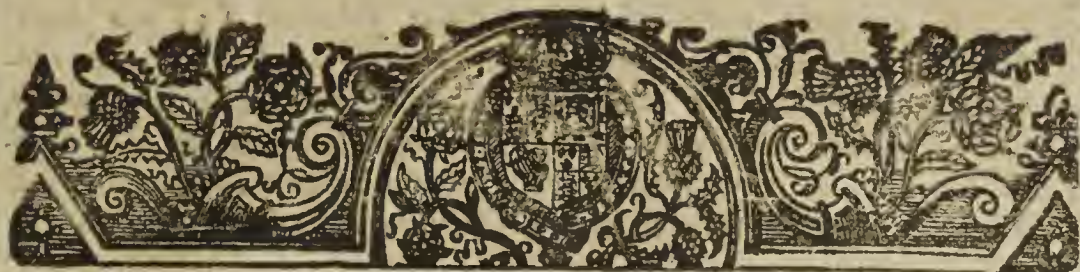
In the ſame year of the ſame King and Queen, *part. 6. Patentium*, Abington in Oxfordſhire was made a Burgh and Corporation, conſiſting of a Mayor, two Bayliſſs, and nine Aldermen; which twelve were to be called **principal Burgeſſes**, and there named who had power to elect ſixteen or more ſecondary Burgeſſes, to be with them the *Common Council* of the Town for all Things. *Ac quod idem Major, Ballibi, & Burgeſſes ejusdem Burgi, &c. erunt unum Corpus corporatum & una Comunitas perpetua, &c.* who only, and their Succeſſors, had a Grant to chooſe one Burgeſs for Parliament. *Concedimus præſatis Majori, Ballibis, & Burgeſſibus, & Succeſſoribus ſuis, quod habeant & habebunt* (as often as there ſhould be Summons to Parliament) *Potestatem, Autoritatem & Facultatem elegendi & nominandi unum discretum & probum Virum dicti Burgi fore Burgenſem Parlamenti, &c.* as in all things in the *Patents* or *Charters* of Banbury and Higham Ferrers. And there needs nothing further to be obſerved upon theſe two places than hath been upon Banbury.

All the time of Queen Mary, the Returns for theſe new erected Burghs are either loſt, or ſo much periſhed and rotten as they are not legible. Yet the Returns about this time of ſome other Towns and Places not far diſtant are anſwerable to this *Conſtitution*; as of Oxford in the firſt of Queen Mary, and the firſt and ſecond of Philip and Mary.

Hæc Indentura facta apud Civitatem Oxon. &c. inter Johanem Williams Militem, &c. ex una parte, &c. & Richardum Atkinſon, Majorem Civitat. prædict. & totam Comunitatem Civitatis prædict. ex altera parte, Teſtatur quod prædicti Major & Comunitas Virtute, &c. unanimi Affenſu & Conſenſu ſuis eligerunt Thomam Walkinſon & Edwardum Clinton, duos idoneos Cives, &c. Data apud Oxon. 27 die Martii, Anno Regni Regine primo.

And alſo of Wallingford, in the firſt of Queen Mary, *Hæc Indentura facta apud Wallingford* ————— *inter Robertum Cockſon Majorem & Comunitatem Villatæ & Burgi Wallingford ex* ————— *Vicecomitem Oxon. & Berks. ex altera parte, Teſtatur, Quod nos dicta Comunitas Villatæ & Burgi prædictorum* ————— *Edmundum Aſcheſyld & Robertum Cockſon Majorem Villæ & Burgi antedictorum Burgeſſes, ad* ————— *In quorum Teſtimonium Sigillum noſtrum Commune, nomine omnium Interreſſentium præſentibus eſt appoſitum.*

FINIS.



THE APPENDIX.

De Burgo Magnæ Jernemu.

Memorandum quod *Villa Magnæ Jernemu* non modico tempore ante conquestum extitit Situata per progenitores Regis Angliæ super portum *Magnæ Jernemu*, occasione proficui provenientis de eodem portu, ad meliorationem ejus Villæ percipiendi, & factus fuit *Burgus Regis*. Unde in libro qui vocatur *Domesday* reperiuntur verba quæ sequuntur.

Gernemu tenuit Rex Edwardus semper septuaginta Burgenses tunc valuit cum duabus partibus Soche de tribus Hundredis 18 l. ad numerum & pars Comitum 9 l. ad numerum, modo duæ partes Regis 17 l. 16 s. & quatuor Denarios blancas, pars Comitum 10 l. blancas, & *Vicecomes* habet quatuor libras & unum *anticipitem* Terræ de Gersuma, has quatuor libras dant Burgenses gratis & amicitia. In eadem habuit tempore Regis Edwardi Ailmarus Episcopus quandam Ecclesiam Sancti Benedicti, eandem modo habet W. Episcopus de Episcopatu & Valet 20 s. totum reddit 12 d. de gelto.

Dimidium Hundredi de Luthinglond Gorleston tenuit *Guertus* tempore Regis Edwardi quinque carucas Terræ pro uno Manerio, tunc viginti Villani modo duodecim, semper quinque Bordmanni, tunc quinque Servi, modo quatuor, tunc in Dominico duæ carucæ modo una, tunc boves V. caruc. modo III. Silvæ quinque porcorum decem acræ prati, tres Salinæ tunc II. Runcini, modo duo, semper trecentæ oves, in Gernemu viginti quatuor piscatores pertinent huic Manerio.

In Bibliotheca
Cotton. Claudius, E. 8. f.
5. A. Col. 1.
N. 1. a.

Nordfulc.
Ibid.
Little Domesday Book, f.
118. a.

Sudfulc.
Ibid. f. 283. a.

[1] Here
N. 2.

ET Sciendum quod Progenitores Domini Regis tenuerunt prædictum Burgum in manibus suis propriis percipiendo omnia proficua exeuntia de portu prædicto, usque ad tempus Regis Johannis [1] qui concessit Villam prædictam Burgenfibus Villæ prædictæ ad feodi firmam reddendo sibi & heredibus suis quinquaginta & quinque libras per annum, ad quod solvendum nihil aliud habent nisi consuetudinem, & alia proficua provenientia de portu prædicto, nec capiant aliquas consuetudines de rebus venditis vel emptis in mercato super terram, nullo tempore anni.

[2] Viz. Tertii.

Et postmodum tempore Regis [2] Henrici Anno Regni sui duodecimo ortis aliquibus contentionibus inter homines de Jernemu, & Rogerum filium Osberti custodem Manerii de Luthinglond de consuetudinibus quas idem Rogerus cepit in portu prædicto contra libertates ipsorum hominum de Jernemu, idem Dominus Rex Anno Regni sui prædicto volens certiorari quæ consuetudines pertinuisent prædictis hominibus de Jernemu, & quæ Manerio suo de Luthinglond, assignavit Martinum de Pateshull ad inquirendum super præmissis. Et facta fuit inquisitio apud Magnam Jernemu Anno Regis Henrici duodecimo, Sacramento viginti quatuor de Comitatu Norfolciæ, & viginti quatuor de Comitatu Suffolciæ tam Militum quam aliorum, per quam quidem inquisitionem fuit compertum, quod omnia magna mercimonia vendi deberent & discarcari apud Magnam Jernemu, & quod tota aqua spectabat ad Homines de Jernemu, sed quod minuta mercimonia & victualia discarcari poterant versus partes de Luthinglond, vel versus Jernemu pro voluntate eadem adducentium, prout in Recordo habito coram præfato Martino, & Sociis suis plenius apparet. Unde patet quod Præscriptio omnium rerum venalium, quam Johannes de Britannia, Comes Richmond Homines & Tenentes sui Villarum Parvæ Jernemu & Gorleston penitus est interrupta.

Postea vero prædicti Burgenfes percipientes quod per prædictam inquisitionem fuerunt damnificati in hoc quod naves cum victualibus poterant discarcare versus partes de Luthinglond, præcipue cum *seisona piscationis* fuit potissimum eorum proficuum; accefferunt ad prædictum Dominum Regem Henricum & obtinuerunt ab ipso quod idem Rex Henricus Anno Regni sui quadragesimo prædicto Manerio de Luthinglond in manu sua existente per Cartam suam concessit iisdem quod omnia mercandisæ & mercimonia tam de piscibus quam de aliis rebus, ad portum de Jernemu in navibus vel extra inventa per manus hujusmodi Mercandorum deferentur apud magnam Jernemu, vendantur, &c. Quibus quidem libertatibus prædicti Burgenfes & Antecessores sui usi fuerunt pacifice.

Declaratio Cartæ Regis Henrici tertii super libertatibus portus Magnæ Jernemu.

SE D postea quia videbatur præfatis Burgenfibus quod verba contenta in Carta Domini Regis Henrici prædicta nimis extiterant obscura, accefferunt ad nobilem Regem Dominum Edwardum Avum Domini

Domini Regis nunc, & petierunt sibi declarationem fieri de verbis antedictis, qui quidem Rex Edwardus Avus, &c. per avifamentum magni Concilii sui, prout patet in * memorandis de Scaccario suo anno Regni sui tricesimo quarto, de Terminis Sanctæ Trinitatis, non obstante reclamatione Adæ Bacoun Clerici, Johannis Kybel, & Johannis de Belton missorum ibidem per homines de parva Jernemu & Gorliston prædicto Manerio de Luthinglond in manu ipsius Regis

A Avi existente, concessit etiam Burgensibus & Successoribus suis quod omnia mercandisæ & mercimonia quæcunque fuerint sive de piscibus, seu de aliis rebus quibuscunque, quæ infra dictum Portum dictæ Villæ nostræ magnæ Jernemu in Navibus aut batellis seu alio modo adduci seu deferri contingeret, ut ibidem negotiaretur de eisdem apud eandem Villam de magna Jernemu & non alibi infra portum prædictum discarcarentur, & Causam exprimit in eadem Carta, * *pro eo quod prædicta Villa sua de magna Jernemu fuit* * liber Burgus suus, & per

B progenitores suos situata exitit super portum suum prædictum, occasione proficui de eodem portu suo provenientis, ad *meliorationem Villæ suæ* percipiendi, quibus quidem libertatibus iidem *Burgenses* post confectionem ejusdem Cartæ usi fuerunt & gavisi, eo quod omnia mercandisæ & mercimonia infra portum prædictum adducta tam in Navibus *Hominum*, & *Tenentium* ipsius *Comitis* Villarum parvæ Jernemu & Gorleston, quam in Navibus aliorum quorumcunque exposita fuerunt venditioni, vendita & discarcata apud magnam Jernemu virtute Cartæ prædictæ, & juxta tenorem ejusdem quod omni-

C bus est publicum & notorium in partibus eidem Villæ magnæ Jernemu circumjacentibus.

* See this Record hereafter following, by the latter clause whereof it evidently appears what, a free Burgh was.

* Note this reason.

Et Sciendum est, quod omnes *libertates* præfatis *Burgensibus* concessæ per Cartas Regis superius annotatas sunt confirmatæ per Dominum Edwardum Patrem Regis nunc, & per Dominum Regem nunc; Et in confirmatione Patris Regis nunc, continetur, quod licet *Burgenses prædicti, vel eorum Successores, aliqua vel aliquibus libertatum prædictarum hætenus usi non fuerunt, eisdem tamen gaudeant & utantur.*

D

Carta Regis Edwardi tertii de libertatibus Portus Magnæ Jernemu.

E

Edwardus Dei Gratia Rex Angliæ, Dominus Hybernæ, & Dux Aquitanæ, omnibus ad quos præsentis literæ pervenerint, Salutem. Sciatis quod cum celebris memoriæ Dominus Edwardus nuper Rex Avus noster per Cartam suam quam Dominus Edwardus nuper Rex Angliæ Pater noster per Cartam suam, & nos similiter per Cartam nostram confirmavimus, concessisse *Burgensibus nostris Villæ nostræ magnæ Jernemu*, quod omnia mercandisæ & mercimonia quæcunque sint, sive de piscibus sive de aliis rebus quibuscunque quæ infra portum nostrum dictæ Villæ nostræ magnæ Jernemu in Navibus aut batellis seu alio modo adduci seu deferri contigerit; ut ibidem negotiaretur de eisdem licite & aperte, apud eandem Villam de magna Jernemu & non alibi, in portum prædictum discarcarentur, & per manus mercandisæ & mercimonia illa ducentium seu deferentium, & ea

F

ibidem vendere volentium, seu per manus fervientium suorum venditioni exponantur, & ibidem quibus voluerint libere vendantur, & emantur, absque aliquo forstallamento, vel abrocamento, seu alio quovis impedimento. Ita quod nullus forstallarius, abrocator, vel alius quicunque obviam eat Mercatoribus cum piscibus, aut aliis mercandis, & rebus venalibus versus prædictam Villam nostram venientibus, ad aliqua inde emenda, seu forstallamenta, vel abrocamenta in dicta Villa vel extra inde facienda *sub forisfactura rei emptæ*, A
per quod dicti Burgenſes, seu aliqui mercatores hujusmodi mercandias & mercimonia ibidem ducentes super emptionibus & venditionibus suis apud eandem Villam nostram de magna Jernemu faciendis, *ad detrimentum ejusdem Villæ* aliquid impediatur, prout in Carta nostra plenius continetur. Ac inter Johannem de Britannis *Comitem* Richemond & Homines & Tenentes suos Villarum parvæ Jernemu & Gorleston ex parte una, & *communitatem* dictæ Villæ Magnæ Jernemu ex altera, occasione quorundam impedimentorum factorum per præfatos *Burgenſes* colore dictæ Cartæ dicti Avi nostri (ut dicebatur) eisdem Hominibus & Tenentibus Villarum parvæ Jernemu & Gorleston de proficuis capiendis de carcatione & discarcatione navium venire volentium ad easdem Villas parvæ Jernemu & Gorleston, & de emptione & venditione rerum venalium, *Idem placitum in diversis Curis nostris tam Parliamentis quam aliis habitum fuisset*, quod in placito illo inter easdem partes per nos & Concilium nostrum consideratum fuit quod idem Comes, & Hæredes sui, nec non *Homines & Tenentes* dictarum Villarum parvæ Jernemu & Gorleston Hæredes & Successores sui proprias naves suas cum rebus & mercandis in eisdem Navibus carcatis, seu de *allece*, seu de aliis *piscibus*, rebus, & mercandis quibuscunque ad easdem Villas parvæ Jernemu & Gorleston carcare & discarcare, & res & mercandias suas ibidem venditioni exponere, & alias commodum suum inde facere valeant, pro eorum libito voluntatis, solvendo inde ibidem *illis* quos nos vel hæredes nostri ad hoc *deputabimus* custumas debitas & consuetas quadam sub B
missione quorundam hominum, & tenentium, dictarum Villarum parvæ Jernemu & Gorleston, & etiam quorundam *Burgenſium* dictæ Villæ magnæ Jernemu, ad quosdam de consilio nostro ad * dictum negotium inter partes prædictas finaliter terminandum, nec non quadam ordinatione per ipsos de eodem Consilio inter easdem partes inde facta, seu prædicta Carta ipsius Avi nostri non obstante. Ita videlicet, quod eorum naves Laniis Coriis & pellibus lanutis suis, de quibus magnæ C
custumæ dari debent, in eodem portu in loco ubi * Thronus noster & * Sigillum nostrum quod dicitur Coket existunt, & non alibi carcantur. Et quod voluntas nostra & intentio nostra & ipsius Consilii nostri fuit, quod dicta Carta ipsius Avi nostri prædictis Burgenſibus Villæ magnæ Jernemu, ut præmittitur, facta per istam considerationem, quoad alios in nullo sit restricta, sed quod locum suum habeant & effectum in omnibus, & gentes omnes, tam indigenas, quam alienigenas, præterquam eisdem Comitem, Homines, & Tenentes dictarum Villarum parvæ Jernemu & Gorleston, Hæredes & Successores suos in forma supradicta, *Salvo jure Civium Civitatum London, Norwici, Baronum de quinque portibus, & aliorum quorumcunque si quod habeant per Cartas de antiquiori data cartæ ipsius Avi nostri vel alio modo in hac parte.* Et quod dictum fuit & inhibitum per nos & dictum Consilium nostrum præfatis Comiti, Hominibus & Tenentibus dictarum Villarum parvæ Jernemu & Gorleston, *ne sub* D
gravi E
F

* See the next Record.

N. I. b.

* Our Beam, and the Seal called Cocquet.

gravi forisfactura nostra ad easdem Villas parvæ Jernemu & Gorleston
 A naves aliorum attraherent quo vis modo, nec mercandis aliquas in
 Aquam portus prædicti cum aliquibus per prædictam Cartam dicti
 Avi nostri restrictis exerceant, nec impedimentum aliquod faciant
 quo minus iidem Burghenses dicta Carta ipsius Avi nostri gentes alias
 sicut prædictum est in omnibus suis articulis juxta vim & efficaciam
 ejusdem uti valeant & exercere. Et quod dictum fuit & inhibuit
 B tam præfatæ Communitati quam præfatis Hominibus & Tenentibus
 parvæ Jernemu & Gorleston, ne quicquam contra considerationem
 dictam & inhibitionem prædictas attemperare præsumant sub forisfactu-
 ra supra dicta prout in Recordo & processu inhibitis, & in Cancellaria
 nostra residentibus plenius continetur. Nos ne præmissa quæ pro
 tranquillitate & quiete partium prædictarum & justitia manutenenda
 per nos & præfatum Consilium nostrum sic considerata fuerunt, futu-
 ris temporibus in dubium revocentur, eâ tenore præsentium duximus
 C testificanda. In cujus rei testimonium has literas nostras fieri fecimus
 patentes. Teste me ipso apud Wodestok, decimo die Julii Anno Regni
 nostri Sexto.

C Inter Recorda de Termino Sanctæ Trinitatis Anno
 tricesimo quarto Edwardi primi Rot. vel. N.
 43.

M Emorandum quod congregatis in Scaccario Regis apud West-
 monasterium modo die Jovis in Vigilia Natalis Sancti Johan-
 nis Baptistæ venerabili Patre W. Coventrensi & Lichfield-
 D ensi Episcopo, Domino Regis Thesaurario, Willielmo de Hamelton
 Cancellario Angliæ R. le Brabazon Justiciario ad placita co-
 ram Rege placitanda deputato, Baronibus de Scaccario, prædictis
 Justiciariis de Banco, & quibusdam aliis de Consilio Regis prædicti
 super quibusdam negotiis Regis tractantibus, venerunt coram eis
 Henricus Rose, & Willielmus Fastolf Burghenses Villæ Regis magnæ
 Jernemuthæ, & supplicarunt pro se & aliis Burghensibus Villæ præ-
 dictæ, quod cum per Cartam Domini Regis Henrici quondam Regis
 E Angliæ progenitoris Regis nunc, quam ipse Rex nunc confirmavit
 inter cætera contenta in Carta prædicta concessum fuit Burghensibus de
 Villa de magna Jernemutha, quod omnia mercandis & mercimonia
 tam de piscibus quam de aliis rebus ad portum de Jernemutha venien-
 tia in Navibus vel extra, libere & aperte per manus hujusmodi merci-
 monia deferentium absque alicujus impedimento vendantur & emantur,
 ita tamen quod non sint abrocatores in prædicta Villa de Jernemutha,
 per quos venditores vel emptores de venditionibus vel emptionibus suis
 F libere faciendis impediuntur ad detrimentum Villæ memoratæ, quod
 ad majorem notificationem & expressionem præmissorum concedatur eis
 inde declaratio sub hac forma (videlicet) quod mercandis & merci-
 monia quæcunque, sive sint de piscibus sive de rebus aliis quibuscunque,
 quæ infra portum Villæ prædictæ vel ad eandem Villam per terram vel per
 mare causa negotiandi ibidem, de eisdem adduci seu deferri contigerit
 libere & aperte apud eandem Villam de magna Jernemutha per manus
 merchandisas

North: Suff. de
 hominibus de
 Jernemuth, &
 Luthinglond.
 N. i. b.

mercandisas & mercimonia illa ducentium, & ea ibidem vendere volentium, seu servientium suorum venditioni exponantur, & ibidem vendantur & emantur absque aliquo forstallamento vel abrocamento seu alio quovis impedimento, ita quod nullus forstallarius, abrocator vel alius quicumque obviam eat mercatoribus cum piscibus vel aliis mercandis aut aliis rebus venalibus per terram vel per aquam versus dictam Villam venientibus ad aliqua inde emenda, vel forstallamenta seu abrocamenta inde facienda sub forisfactura rei emptæ, per quod dicti Burgenſes seu aliqui mercatores hujusmodi mercandisas & mercimonia ibidem ducentes super emptionibus & venditionibus ad detrimentum Villæ prædictæ aliquo qualiter impediuntur.

Et super hoc obtulerunt se coram Concilio prædicto Adam Bacon Clericus, Johannes Kybel de Gorleston, & Johannes de Belton de Suth Fernemutha quæ sunt in Ludinglond, dicentes & proponentes quod acta declaratio si concessa fuerit, multum cederet in præjudicium & perpetuam deteriorationem hominum Villarum earundem, quæ quidem Villæ sitæ sunt prope portum prædictum: Dicunt enim, quod semper retroactis temporibus naves ingredientibus portum illum in seisona piscationis allecis discarcari solebant pro voluntate Magistrorum navium illarum, tam ad illas Villas quam ad magnam Fernemutham, (videlicet) ad quem locorum prædictorum illi quorum interſit vendere mercimonia in hujusmodi Navibus carcata vellent exponere ea venditioni & ibidem vendi & emi absque ullo impedimento; & per prædictam declarationem si concessa esset, in forma prædicta, attraherent Burgenſibus Magnæ Fernemuthæ toto tempore anni omnimodas naves cum quibuscunque mercimoniis applicantes in portu prædicto ad eandem Villam, & non permetterent hujusmodi naves alibi discarcare nec aliqua mercimonia in eisdem navibus adducta alibi venditioni exponere, &c. Unde petierunt pro Statu hominum Villarum prædictarum in Ludinglond quod nulla concessio fiat in hac parte in læſionem vel derogationem consuetudinum suarum pacifice hætenus obtentarum super emptionibus & venditionibus faciendis ad easdem Villas, ut prædictum est, &c.

Et prædicti Henricus & Willielmus dicunt, magna Fernemutha est * Liber Burgus Regis, & tenetur de ipſo Rege ad feodi firmam quinquaginta quinque librarum per annum, eo quod non est aliquod * certum in Villa prædicta spectans ad firmam illam, unde aliqua pars inde exeat vel emergat, sed quod ipſi Villæ ejusdem ratione proficui quem habent & habere clamant, de rebus venalibus adductis ad portum prædictum vendendis ad eandem Villam, & pro aliis libertatibus quæ ad liberum Burgum pertinent & quas Rex Scilicet * Avus Regis nunc, & Rex Henricus Pater Regis nunc, per cartas suas eis concesserunt, & ipſe Rex nunc per cartam suam confirmavit, solverunt annuatim firmam supradictam, &c. Et ostendunt Cartam Regis nunc de confirmatione cartarum prædictarum Avi sui & Patris sui quæ testatur magnam Fernemutham esse liberum Burgum, &c. Et de Rege teneri ad feodi firmam, &c. Et plures & diversas libertates hominibus ejusdem Villæ & eorum Hæredibus & Successoribus esse concessas, inter quas ad plenum continetur quod superius in principio hujus processus de concessione Patris Regis nunc exprimitur, &c. Et petunt quod explanatio sive declaratio quam petunt super concessione illa concedatur, non obstante reclamatione dictorum Adæ, Johannis & Johannis pro hominibus prædictis de Ludinglond, præsertim cum ipſi

* Notè here what Liber Burgus a free Burgh was. To wit, a Town that had special Liberties granted by the Kings Charter.

* i. e. no Lands or certain Rents.

* King John.

non ostendant, nec ostendere poterunt quod *Villæ de Suth. Jernemutha & de Gorleston sint Burgi*, vel aliquam libertatem ad * *Liberum Burgum* pertinentem habeant per *Cartam Regis*, &c. Adjicientes, quod nisi *inhabitantes Villas illas*, qui ex concessione Regia nullas habent libertates, &c. *compellantur subtrahere & delere usurpationes & foristallamenta quæ faciunt & indies facere nituntur contra libertates magnæ Jernemuthæ*, &c. Attrahentes eis mercandisas & mercimonia quorumcunque adducta ad prædictum portum, & non permittentes mercimonia hujusmodi transduci seu transferri ad Villam magnæ Jernemuthæ ibidem venditioni exponenda & vendenda, ad quam Villam & non aliam spectat portus prædictus eadem in proximo penitus adnullabitur, unde pro Rege & Statu Villæ suæ opportunum remedium petent eis adhiberi in hac parte; & habito inde tractatu per Concilium Regis prædictum, visaque & examinata Carta Regis prædicta, &c. Et quesito etiam a præfatis Ada, Johanne, & Johanne, si aliquam Cartam Regis habeant de aliquibus libertatibus concessis hominibus Villa parvæ Jernemuthæ, & Gorleston, & obtento quod non, visum est concilio prædicto quod per verba expressa in prædictis Cartis Regum Johannis & Henrici confirmatis per Regem nunc, &c. Et per hoc quod prædicta Villa de magna Jernemutha est * *Liber Burgus*, &c. quod omnia mercimonia adducta ad portum prædictum tum de piscibus quum de aliis rebus vendenda, &c. Exponi debent venditioni & vendi ad Villam magnæ Jernemuthæ, &c. & non ad prædictas Villas in Ludinglond, quæ non sunt Burgi, &c. Unde dictum est per dictum Concilium ex parte Domini Regis firmiter injunctum præfatis Ada, Johanni & Johanni de Belton, quod ipsi scire faciant hominibus prædictarum Villarum in Ludinglond pro quibus sequuntur quod nullus eorum præsumat attrahere ad suas partes aliquas naves applicantes in portu prædicto cum aliquibus mercandis seu mercimoniis vendendis, nec de hujusmodi mercandis seu mercimoniis venditiones seu emptiones ibidem facere quoquo modo, quo minus mercandisæ & mercimonia illa libere & aperte absque impedimento seu aliquo foristallamento transduci possint ad prædictum Burgum Regis Jernemutham, & ibidem prius exponi venditioni & vendi per manus illorum quorum mercandisæ & mercimonia illa fuerint vel Attornatorum eorundem prout justum fuerit, & prout per libertates hominibus Burgi prædicti a Domino Rege & Progenitoribus suis concessas fieri debet, &c.

* Note here the same.

* Note again what Liber Burgus was.

By this Plea and Controversie in the Exchequer, between the Burgh of Great Tarmouth, and the Men of Little Tarmouth and Gorleston in Lovinglond, it appears, That Prescription, seeing they were no Burghs, prevailed not to assert and make good a liberty of unlading Goods, and exposing them to Sale in those Towns, though it had been always done in foregoing times. By the same it is also evident, that Liberties belonging to free Burghs were only to be had and obtained by the Kings Charter, and that where they were used without it, they were esteemed and judged Usurpations. Especially if practised, and continued to the prejudice and damage of a free Burgh.

Prescription not allowed, against the Liberties of free Burghs, &c.

Johannes

Cart. 9. Johan-
nis, N. 20.
Carta Burgen-
sium de Ger-
nemuth.

N. 2.

Johannes Dei Gratia, &c. Sciatis non concessisse & præsentem
Carta nostra confirmasse Burgenfibus nostris de Gernemua quod
habeant Burgum de Gernemua ad feodi firmam in perpetuum, &
quod Burgus ille sit liber Burgus imperpetuum, & habeant
[a] Socam & [b] Sacam, [c] Tol & [d] Theam, & [e] Infan-
genethes & [f] Utfangenethes, & quod ipsi Burgenfes per totam
terram nostram, & per omnes portus maris sint quieti de [g] Theo-
loneo, [h] Lestagio, [i] Passagio, [k] Paagio, [l] Pontagio, [m]
Stallagio, & de [n] Leve, & de [o] Denegeld, & omni alia con-
suetudine, salva libertate Civitatis London, & quod nullam sectam
Comitatum vel Hundredorum faciant de tenuris infra Burgum de
Gernemua. Concessimus etiam eisdem Burgenfibus, & hac Carta
nostra confirmavimus quod nullus eorum placitet extra Burgum de
Gernemua de nullo placito præter placita de tenuris exterioribus.
Concessimus etiam eis quietanciam murdri infra Burgum de Gerne-
mua, & quod nullus eorum faciat [p] Duellum, & quod de placitis

Soca.

[a] *Soca, Socna*, the place, Territory, or Precinct, wherein *Saca* or *Liberty* of Court was exercised, the Circuit of the place of the Franchise, or the Liberty, Privilege, or Franchise itself.

Saca.

[b] *Saca, Sacca, Saka, Sáena*, signifies a *Liberty* or *Power* granted by the King to try and judge causes, and of receiving the forfeitures arising from them, within the *Limit, Domi-
nion, or Jurisdiction* of the Court. See more of these words in the Preface to my His-
tory, Fol. 61.

Tol.

[c] *Tol*, a word commonly known, being an *imposition* or *payment* for things bought and sold in *Mercates*.

Theam.

[d] *Theam*, a *Privilege* to take and keep *Bondmen, Villans, Servants* and *Slaves*, with their *Generations* one after another, and *Posterities*, which in *Latin* are sometimes called *Seffa*, sometimes *Sequela*, and to dispose of, and sell their *Children*, or *moveable*, or *immoveable* goods at pleasure.

Infangthes.

[e] A *Liberty* granted to try and judge a *Thief* taken within the Jurisdiction of the *Burgh*.

Utfangthes.

[f] *Ut* or *Outfangenethes*, a *Liberty* to take a *Thief* that fled, and bring him back to the Court, or Place, within which the fact was committed, and there to try and judge him.

Theloneum.

[g] *Theoloneum*, the same with *Toll*.

Lestagium.

[h] *Lestagium*, a *Liberty* for Men to carry their Goods up and down in *Fairs* and *Mercates*, where they please.

Passagium.

[i] *Passagium*, Money paid by *Passengers* at *Bridges, Gates, &c.* which may be called *Gate-Toll, Bridge-Toll, &c.*

Paagium.

[k] *Paagium* any *Tribute* or *Payment* from the French Word *paier*, and ours to *pay*, or perhaps the same word with *Passagium* the double *S* being left out, yet the word retained by the ignorance of the Scribe.

Pontagium.

[l] *Pontagium*, *Toll* paid for *Passage* over *Bridges*, with *Horses, Carriages, &c.* and under them, with *Boats, Ships, &c.*

Stallagium.

[m] A *payment* for a *Stall*, or a *Right* to have one in *Fairs* or *Mercates*.

Leve:

[n] *Leve*, pro *Leva*, *Tribute*, *Levies*, *Exaction*, *Collection*, a *Levare*, *Exigere*, *Tributum imponere*.

Danegeld.

[o] *Danegeld*, this was a *Tax* or *Money* paid, and imposed, and levied for defence of the Nation against the *Danes*, or rather an annual *Tribute* paid to them, that they might abstain from *Raïne, Burning* and *Slaughter*, See my History, Fol. 123. E. F.

Duellum, &c.

[p] *De Duello inter forinsecum & Burgensem. Leg. Burgor. Scot. c. 14. Si quis forinsecus Burgensem de re aliqua appellaverit, non potest super Burgensem pugnare, sed Burgenfis per legem Burgi se defendet.*

ad Coronam pertinentibus se possint dirationare secundum legem & consuetudinem Oxon, & quod infra Burgum prædictum nemo capiat hospitium per vim, vel per liberationem Mareschallorum, & quod in Burgo illo in nullo placito sit Meskenninga, & quod Hustling semel tantum in ebdomada teneatur. Concessimus etiam eis Gildam Mercatoriam, & quod terras, & tenuras, vadia sua, & debita sua, omnia iuste habeant quicunque eis debeat, & de terris suis & tenuris

A quæ infra Burgum prædictum sunt rectum eis teneatur, secundum legem & consuetudinem Burgi Oxon, & de omnibus debitis suis quæ accommodata fuerint apud Gernemuam, & de vadiis ibidem factis placita apud Gernemuam teneantur. Et si quis in tota Anglia Theolonia vel consuetudines a Burgenſibus de Gernemua ceperit, excepta, ut superius, dicta Civitate London, postquam ipse a recto defecerit, Præpositus de Gernemua Namium apud Gernemuam capiat. Insuper ad emendationem prædicti Burgi de Gernemua concessimus
B quod quinque Mercatores petierint Burgum de Gernemua cum Mercato suo de quocunque loco fuerint sive extranei, sive alii qui de pace nostra fuerint vel de licentia nostra in terram nostram venerint, veniant, morentur, & recedant, salva pace nostra reddendo rectas consuetudines illius Burgi. Prohibemus etiam ne quis prædictis Burgenſibus injuriam vel dampnum vel molestiam inferat super forisfacturam decem librarum. Quare volumus & firmiter præcipimus quod prædicti Burgenſes de Gernemua, & eorum hæredes habeant & teneant imperpetuum omnia prædicta hæreditarie, bene & in pace,
C liberè, quiete, integre, plenarie & honorificè reddendo inde annuatim quinquaginta & quinque libras numero, per manum Præpositi de Gernemua ad Scacarium nostrum ad Terminum Sancti Michaelis: & Burgenſes de Gernemua facient Præpositos de se per annum qui sint idonei nobis & eis. Testibus Domino H. Wintoniensi, Domino J. Norwicensi, S. Sarisberienſi Episcopis, G.

Filio Petri, W: Mareſcallo, Comite Pembroke, W.
D fratre nostro, Comite Sarum, W. Comite de Ferrariis, Petro filio Herberti, W. Briwer, H. de Nevill, Adamo de Portu, Garino filio Geroldi, Willielmo de Cantilupo, Johanne de Bassing, Galfrido Lutterell, Thoma filio Adæ. Datum per manum H. de Well Archidiacono Wellenſi apud Merleberg decimo octavo die Martii, Anno Regni nostri nono.

E

F

*

B

Johannes

1 Johannes, N.
164. Carta
Burgensium
de Dunewic.
N. 3. a.

Johannes Dei Gratia Rex Angliæ, Dominus Ybernix, Dux Nor-
manniæ, Aquitaniæ, Comes Andegaviæ, Archiepiscopis, Epif-
copis, Abbatibus, Comitibus, Baronibus, Justiciariis, Vice-Comi-
tibus, Præpositis & omnibus Ballivis & fidelibus suis, Salutem. Sci-
atis nos concessisse & præsentī Carta confirmasse Burgensibus nostris
Dunewici quod Burgum de Dunewic sit liberum Burgum nostrum,
& habeat Socam, & Sacam, & Toll, & Theam, Infangenetheof, & quod
ipsi per totam terram nostram sint quieti de Theloneo, & Lestagio, &
Passagio, & Pontagio, & Stallagio, & de Leve, & de Danegeld, &
de [a] Ewagio, & de [b] Wrec, & [c] Lagan, & de omnibus
aliis consuetudinibus, Salva libertate Civitatis London, & quod ipsi
rectam & Solitam firmam suam per manum suam reddant ad Scac-
carium nostrum, & quod nullam Sectam faciant Comitatum vel
Hundredorum nisi coram Justiciariis nostris; Et cum summoniti fue-
rint esse coram Justiciariis mittant pro se duodecim legales homines
de Burgo suo, qui sint pro eis omnibus. Et si forte amerciari debue-
rint, per sex probos homines de Burgo suo, & per sex probos homi-
nes extra Burgum, amercientur. Concessimus etiam eis quod [*]
filios & filias suas possint libere ubi voluerint in terra nostra maritare,
& viduas similiter per consilium amicorum suorum, & [*] perquisi-
tiones suas de terris & ædificiis in Villa sua possint dare aut vendere,
aut facere inde quod voluerint, & quando voluerint. Concessimus
etiam eis [d] hanfam, & [e] Gildam Mercatoriam, sicut habere
consueverint. Quare volumus & firmiter præcipimus, quod præ-
dicti Burgenses nostri prænominatas libertates & liberas consuetu-
dines habeant, & teneant liberè, pacifice, & integre sine omni im-
pedimento. Testibus Eustachio Elyensi Episcopo, Willielmo Ma-
reschallo, Comite de Pembroke, Johanne de Pratell, Ga.
Data per manum Huberti Cantuariensis Archiepiscopi, Cancellarii
nostri apud Rupem Aurmall Vicesimo nono Die Junii, Anno Regni
nostri primo.

[a] *Ewagium*, I know not what it means, unless it be here used for Aquagium, an Aquæ-
Duct, or Water-Passage.

[b] *Wrec*, Goods thrown over-board, when the Ship is over-laden, or cast away at Sea.
These belonged to the *Crown* in all places, and could not be enjoyed but by special *Grant*
or *Privilege*.

[c] *Lagan*, from the old word *Liggen* or *Leggen*, Goods lying and found under Water, or
in the *bottom* of the Sea.

[*] Note; before they had the Kings *Licence*, the *Burgeffes* could not *Marry* their *Sons* and
Daughters to *whom*, and *where* they pleased, nor could *Widows* *Marry* themselves, nor
could the *Burgeffes* give or sell the *Lands* they purchased, without *Licence*, or before their
Charter. And most probable it is, these were of the same *state* and *condition* with the
Burgenses Dominici, in the Saxon times before the Conquest, who had the *King* or some
other *Lords*, or great Men for their *Patrons*, and *Protectors*.

[d] *Hansa*, from the German word *Hanse*, which signifies a *Society*.

[e] *Gilda Mercatoria*, a *Trading Society*, a *Company* of *Buyers* and *Sellers*. The other
words are all interpreted in the *Charter* of *Tarmouth*.

Johannes

- J**ohannes Dei Gratia, &c. Sciatis quod remisimus & perdonavimus Burgensibus nostris de Dunwico quadraginta libras in perpetuum de firma sua quam nobis reddere solebant pro Villa de Dunwico, scilicet, de [a] sexties viginti libris & viginti quatuor mille allecum & una Marca. Ita quod reddent nobis & hæredibus nostris de cætero singulis annis quater viginti libras & viginti quatuor mille allecum & unam Marcam pro prædicta Villa de Dunwico tenenda in perpetuum ad feodi firmam. Quare, &c. quod prædicti Burgenses nostri & hæredes sui quieti sint in perpetuum a nobis & hæredibus nostris de prædictis quadraginta libris de prædicta firma, sicut prædictum est. Concessimus etiam eis & hac Carta nostra confirmavimus quod non * namientur pro aliquo debito unde non fuerint vel plegii vel capitales debitores nisi ipsi super hoc quieti in Justitia exhibenda defecerint, & nisi in locis quibus libertatem & potestatem hujusmodi namia capiendi concessimus. Testibus W. Comite Sarum, W. Comite Arundell, Willielmo Briwer, Hugone de Neville, Warino filio Geroldi, Thoma Basset. Data per manum Hugonis de Well Archidiaconi Wellensis apud Freitmantell quinto die Novembris anno, &c. Septimo.
- A**
- B**
- C** Dunwich paid to the King Three Hundred Marks for to have their Liberties granted to them, in their Charter in the First of King John besides Ten Falcons, and Five Girfalcons.
- D** The Burgesses or Men of Dunewic further gave the King an Hundred Marks of Silver, that they might have and enjoy their Charter of Liberties which was then detained, as may be supposed by what follows.
- E** The Burgesses of Dunewich gave more to the King 200 Marks and 500 Eeles, for having Wrec and Lagan inserted into, or Granted by their Charter, and the Charter was delivered to Geofry Fitz-Peter, until provision was made for the Security of 300 Marks first promised, and 100 Marks promised the second time.
- F** Burghenses [3] de Dunewic dant Domino Regi ducentas Marcas & quinque mille Anguillarum pro habenda Wrec & Lagan in Carta sua Cartam G Fil. Petri ut provideatur de securitate de trecentis Marcis primo promissis, & de centum Marcis secundo promissis.

Cart. 7 Johan. m. 6. n. 45.

N. 3. b.

* Should not be distreined.

[1] Rot. oblat. 1 Johan. M. 19.

[2] Ibid. M. 9.

[3] Ibid. M. 1.

[a] Note, the great Fee-Farm Rent of this now poor Town, it was almost twice as much as any, and more than twice as much as most Coast-Towns in Norff. and Suff. then paid.

Cart. 51 H. 2.
M. 10. N. B.
by *Inspecimus*.
Note, there
are in this Roll
two M. 10.

N. 4.

* Officer or
Sheriff.

Henricus Dei gratia Rex Angliæ, &c. Archiepiscopis, Episcopis, &c. Salutem. Inspecimus Cartam quoniam bonæ memoriæ Henricus quondam Rex Angliæ Avus noster fecit Burgensibus Wallingfordiæ in hæc verba.

Henricus Dei gratia Rex Angliæ, & Dux Normanniæ & Aquitaniæ & Comes Andegaviæ Archiepiscopis, &c. & fidelibus totius Angliæ & Normanniæ, Franciæ & Aquitaniæ, Salutem. Præcipio vobis ut *Burgenses* mei de Wallingford firmam pacem meam habeant per totam terram meam Angliæ & Normanniæ ubicunque sint; & sciatis me dedisse & concessisse eis imperpetuum libertates & leges suas omnes & consuetudines bene & honorifice sicut melius & honorabilius eas habuerunt [*a*] tempore Edwardi Regis & tempore Atavi mei Regis Willielmi, & ejus filii alterius Regis Willielmi & tempore Henrici Regis Avi mei, *scilicet*, Gildam Mercatoriam cum omnibus consuetudinibus & legibus suis libere habeant, ne * Præpositus meus vel aliqua Justicia mea de Gilda eorum se intromittat nisi proprie Aldermannus & Minister eorum. Et si Ministri mei vel aliqua Justicia aliquo placito vel occasione calumpniaverit illos, vel in causam ducere voluerit, prohibeo & præcipio ne ullo modo respondeant nisi illorum proprio portimoto. Et si ipse Præpositus eos aliqua occasione sine calumpniatore implacitaverit non respondeant. Et si aliquo forisfacto vel recto judicio aliquis eorum forisfactus fuerit per rectam considerationem *Burgensium* erga Præpositum illud emendet. Prohibeo etiam & præcipio ne aliquod Mercatum sit in [*b*] Craumerfa, nec Mercator aliquis nisi sit [*c*] Gilda Mercatoria; & si aliquis exierit de *Burgo* Wallingford, & vivat de Mercato ipsius Wallingford, præcipio ut rectum Gildæ Mercatoriæ faciat ipsis *Burgensibus* ubicunque sit infra *Burgum* vel extra. Sciatis præterea me dedisse & concessisse imperpetuum omnibus hominibus Wallingford plenam quietanciam de annuo [*d*] Gablio meo quod solebant reddere de *Burgo* Wallingford, de eo, *scilicet*, quod ad me pertinet in *Burgo* has leges & consuetudines, & libertates & quietancias omnes

[*a*] *Modo sunt in ipso Burgo Consuetudines omnes ut ante fuerunt*, This follows in a distinct Line by itself, immediately after what is written out of *Domesday* Book further on. The word *Consuetudines* here seems to signify *Rents*, and the whole to sound no more, than that the *Rents* of Houses were not raised in that Burgh after the Conquest; or they might have the same other Customs, though they paid more for them, for the Farm of the Town was raised from 30 to 60 *l. per Annum*, *Domesd.* f. 56. b. Col 1.

[*b*] *Craumerfa* is a Village or small place over against *Wallingford Castle* or the Town, where there was an Anti-Castle or Fortrefs built, to restrain and keep in the Garison in that Castle in the time of King *Stephen*; this appears by the great Ditches and Trenches to be seen before the place where the great Castle-Gate was.

[*c*] At this time it was thought a great *Privilege* at least, if not a *Livelihood* to be a Member of a Trading or Merchant-Gild; and where-ever a *Burgess* dwelt, if he lived upon, or used the Mercate of *Wallingford*, he was to perform all *Duties* to the Gild, and be judged according to the *Rules* and *Laws* of it, whether he lived within a Burgh, or without. *Et si quis exierit de Burgo Wallingford, & vivat de Mercato ipsius Wallingford, præcipio ut rectum Gildæ Mercatoriæ faciat ipsis Burgensibus, ubicunque sit, infra Burgum, vel extra.*

[*d*] In *Burgo* de *Wallingford* habuit Rex *Edwardus* octo virgatas Terra, & in his erant 276 Hage redientes undecem libras de Gablo, & qui ibi manebant faciebant Servitium Regis, cum Equis, vel per Aquam usque ad *Blidberiam*, *Reddinges*, *Sudrone*, & *Bensentone* (all Towns in *Berkshire*) & hoc facientibus dabit Præpositus (Burgi) Convedium (their Diet) non de censu Regis sed de suo, *Domesd.* f. 56. a. Col. 2. *Blubery*, *Reding*, *Sutton-Courtney* and *Besington* all in *Berkshire*, upon or near the *Thames*, above and below *Wallingford*, and the service here meant was *Water* and *Land* Carriage.

dono eis, & concedo imperpetuum, & alias omnes quas poterunt
 ostendere antecessores suos habuisse libere, quiete, & honorifice sicut
 Cives mei Winton melius unquam habuerunt, & hoc pro Servitio
 & labore magno quem pro me sustinuerunt in acquisitione hæredita-
 rii juris mei in Anglia. Concedo etiam eis quod ubicunque ierint
 in Mercationibus suis per totam terram meam Angliæ & Norman-
 niæ, Aquitaniæ & Andegaviæ, *by Gater and by Stronde, by Wode*
and by Londe, quieti sint de Tolneto & Passagio & omnibus Consue-
 tudinibus & Exactionibus, ne super hoc ab aliquo inquietentur su-
 per forisfacturam decem librarum. Prohibeo etiam & præcipio
 super eandem forisfacturam ne Præpositus Wallingford [e] Scota-
 liam faciat, & ne [f] Gerefumam ab aliquo quærat, & quod nul-
 lam consuetudinem in Wallingfordia statuatur quæ noceat *Burgensibus*
 Villæ hujus Donationis & Concessionis. Testes sunt Thebaldus Ar-
 chiepiscopus Cantuariensis & alii. Data apud Oxeneford primo Idus
 Januarii. Nos autem prædictas donationem & concessionem ratas
 habentes & gratas eas pro nobis & hæredibus nostris, prædictis *Bur-*
gensibus & eorum Successoribus concedimus & confirmavimus prout
 Cartâ prædicta rationabiliter testatur. Volumus etiam & concedi-
 mus pro nobis & hæredibus nostris quod licet *Burgenses* prædicti a
 principio turbationis dudum post Parliamentum habitum apud Oxon
 in Regno nostro suscitata, aliquo articulorum libertatum prædicta-
 rum minus plene hætenus usi fuerint ipsi tamen & eorum Successores
 nichilominus de cætero libere & sine impedimento aliquo utantur li-
 bertatibus ante dictis sicut prædictum est. His testibus Roberto
 Walraund, Roberto Aguyoun, Nicholao de Leukenore, Willielmo
 de Aete, Johanne de La Lynde, Petro de Neville, Radulpho de Ba-
 kepuz, Willielmo Belet, Bartholomæo Bigod, & aliis. Data per
 manum nostram apud VVestmonasterium duodecimo die Januarii,
 Annò Regni nostri quinquagesimo primo.

[e] *Scotale* from *Scot*, a gathering or *shot*, and *Ale* in the known signification, *Scotales* were
abuses put upon the *Kings People* by his *Officers*, who invited them to drink *Ale*, and
 then made a *Collection*, to the end they should not *vex* or *inform* against them, for the
Crimes they had committed or should commit.

Scotale, what
it was.

[f] *Gerefumma*, or sometime *Feresumma*, is properly an *Income* or *Fine* paid for the en-
 trance upon some *Place*, *Estate* or *Office*. Here it signifies plainly a *Bribe*, or *Money*
 given to the *Kings Officer* to connive at, and not to *prosecute* those that gave it in *Cri-*
iminal Cases.

Gerefumma,
or *Feresumma*.

This was a large Charter, and was granted unto the Burgeses of
VVallingford for the good service they did King Henry the Second,
and his Mother Maud the Empress, against King Stephen.

Ricardus

Cart. 5 Ricard.
di 1.

N. 5.

* *Pedagium*
and *Paagium*
are the same.

* i. e. 10 Lib.

Ricardus Dei Grátia Rex Angliæ, &c. Archiepiscopis, Episcopis, &c. Salutem. Sciatis nos retinuisse in manum nostram Burgum nostrum de Portesmue, cum omnibus ad eum pertinentibus, & in eo stabilisse & dedisse & concessisse *Nundinas* duraturas semel in anno per *quindecim dies* ad vincula Sancti Petri, scilicet. Concessimus etiam quod omnes homines Angliæ, Normanniæ, Picaviæ, Walliæ, Scotiæ & omnium terrarum nostrarum, & aliarum veniant ad prædictas *Nundinas*, & eant & redeant bene & in pace, & habeant omnes quietancias & libertates quas habent ad *Nundinas* Winton, vel Hoiland, vel alibi in terram nostram. Concessimus etiam quod *Burgenses* nostri in eodem *Burgo* habeant singulis Ebdomadis anni una die septimanæ, scilicet die Jovis, Mercatum cum omnibus libertatibus & liberis consuetudinibus quas cives nostri Wintoniæ, vel Oxoniæ vel alii terrarum nostrarum habent vel habere debeant. Concessimus etiam quod prædicta Villa de Portesmue, & omnes *Burgenses* nostri in eâ, & de ea tenentes sint quieti & liberi de Thelonio, & Pontagio, & Passagio, & * *Pedagio*, & *Paagio*, & *Stallagio* & *Tallagio*, & de *Schiris*, & *Hundredis*, & de *Sectis* *Schirarum* & *Hundredorum* & de *summis*, & *auxiliis* *Vicecomitum* & *Servientium* & de *placitis* & *querelis* omnibus, & de [a] *Blodmyta*, & de [b] *Sichwyta*, & de [c] *Leirewyta*, & de [d] *Wapentake*, & de *placito* *Forestæ*, & *Guardo*, & [e] *Reguardo* *Forestæ*, & de omnibus aliis secularibus exactionibus tam per mare quam per terram ubicunque venerint in totam terram nostram. Quare volumus & firmiter præcipimus, quod prædicta Villa de Portesmue, & *Burgenses* nostri in ea tenentes *Mansiones* suas & *possessiones* habeant & teneant, cum *Thol*, & *Theam*, & *Infangenetheof*, & *Utsfangenetheof*, & cum omnibus libertatibus & liberis consuetudinibus ita bene & in pace, libere & quiete sicut *Cives* nostri Wintoniæ, vel Oxoniæ, vel alii de terra nostra melius habent & tenent. Et prohibemus ne ponantur in placitum de aliquo tenemento ejusdem Villæ, nisi coram nobis. Et prohibemus ne quis eos disturbet in aliquo super forisfacturam * nostram. His testibus, &c. Data per manum Willielmi de Longo Campo Elyensis Episcopi Cancellarii nostri apud Portesmue. Secundo die Maii, Anno Regni nostri quinto.

[a] *Blodemyta*, a *Mulct* or *Amerciament* for drawing Blood.[b] *Sichmyte*, I know not what it is.[c] *Leirmyte*, *Lairmyte*, *Legermyte*, a *Mulct* upon him that corrupted a *Bondwoman*, or upon a *Bondman* for the *Fornication* of his Daughter.[d] Free from *Suit* and *Service* to the *Wapentake Court*, as before from *Suit* and *Service* to the *County* or *Shire Court*, and *Hundred Courts*.[e] *Regard*, &c. There were in the *Kings Forests* certain Officers called *Regardatores*, now called *Rangers*, who often viewed and went about the *Forests*, to see if any *Wood* was cut, *Venison* stoln, and other *Trespases* committed therein; which view or inspection was called a *Regard*; as likewise was the *punishment* for such Offences and *Trespases*.

A **J**ohannes Dei gratia, &c. Sciatis nos concessisse hominibus de Andever quod habeant Gildam Mercatoriam in Andever & quod sint quieti de Theloneo & Passagio & consuetudine per totam terram nostram sicut Burgenſes Wintoniæ qui sunt de Gilda Mercatorum sunt quieti, & super hoc nullus eos injuste disturbet pro consuetudine super decem librarum forisfactura, sicut Cartæ Henrici Patris nostri, & Ricardi Fratris nostri quas inde habent rationabiliter testantur. Testibus R. Comite Cestriæ, Warino filio Geroldi, W. de Braosa, Petro filio Herberti, Henrico Bisset, Hugh de Lascy, Petro de Stok. Data per manum J. de Well apud Radinge primo die Maii Anno Regni nostri sexto.

Cart. 6 Johan. n. 15.

N. 6.

B **J**ohannes Dei gratia, &c. Sciatis nos dedisse & concessisse & hac præſenti Carta nostra confirmasse dilecto & fideli nostro Willielmo Briwer quod *Bruge* Walteri sit liberum *Burgum* & quod ibi sit liberum Mercatum, & una feria singulis annis per octo dies duratura, scilicet, a die Nativitatis Beati Johannis in octo dies cum Theloneo, Paagio, Pontagio, Passagio, Lestagio, Stallagio & cum omnibus aliis libertatibus & liberis consuetudinibus ad liberum *Burgum* & ad Mercatum & Feriam pertinentibus. Concessimus etiam prædicto Willielmo quod prædicti *Burgenſes* sui de prædicto *Burgo* sint liberi *Burgenſes*, & sint quieti de Theloneo, Paagio, Pontagio, Passagio, Lestagio & Stallagio, & habeant omnes libertates, & liberas consuetudines & quietantias quæ ad nos pertinent per totam terram nostram, & per omnes portus terræ nostræ, excepta Civitate London. Quare volumus & firmiter præcipimus quod prædictus Willielmus & hæredes sui post ipsum habeant & teneant omnia prædicta bene, & in pace, libere & quiete, integre, plenarie, & honorifice cum omnibus libertatibus & liberis consuetudinibus suis sicut prædictum est. Testibus W. Mareſcallo Comite de Penbroc, R. Comite Cestriæ, Willielmo Comite Sarum, Willielmo de Rupibus Seneschallo Andegaviæ, &c. Data per manus S. Wellens Archidiaconi Glouceſtriæ apud Turon vicesimo sexto die Junii, Anno Regni nostri secundo.

Cart. 2 Johan. p. 2. n. 132.

N. 7.

E **J**ohannes Dei gratia, &c. Sciatis nos concessisse & præſenti Carta nostra confirmasse, quod Burgus noster de Helleſton sit liber Burgus & quod Burgenſes nostri de eadem Villa habeant Gildam Mercatoriam & quietanciam per totam terram nostram de Theloneo, Pontagio, Passagio, Stallagio, Lestagio & [a] Sollagio salvis in omnibus libertatibus Civitatis London. Concedimus etiam eis quod non placent nisi infra Burgum suum de rebus vel tenuris pertinentibus ad villam suam præterquam de placitis ad Coronam nostram pertinentibus & placitis de terris forinsecis. Volumus etiam quod

Cart. 2 Johan. n. 47.

N. 8.

[a] I know not the meaning of *Sollagium*, unless it be in stead of *Seidagium*, a Payment for standing in a Shed.

habeant omnes alias libertates & liberas consuetudines quas habuerunt Burghenses nostri de Castello de Lanceston tempore Regis Henrici Patris nostri. Ita quod nullus Burghensium prædictorum [b] nisi residens fuerit in prædicta Villa de Helleston has habebit libertates. His testibus W. Comite Sarum, W. Briwer, Roberto de Turnham, Roberto de Tresgos, Sim. de Pateshul, Radulpho de Stok, Eustachio de Faruberge. Data per manum S. Wellensis Archidiaconi apud Craneburn decimo quinto die Aprilis, Anno Regni nostri secundo.

A

Rot. Cart.
5 Johan.
n. 112.

N. 9.

Johannes Dei Gratia, &c. Noveritis nos ad instantiam & petitionem venerabilis Patris nostri Johannis Norwicensis Episcopi Secundi, concessisse & hac præsentī Carta nostra confirmasse quod Villa de Lenna sit liber Burgus in perpetuum, & habeat omnes libertates & liberas consuetudines quas [c] liberi Burgi habent, omnibus salvis ipsi Episcopo & Successoribus suis, & Willielmo Comiti Arundell, & hæredibus suis libertatibus & consuetudinibus quas ipsi in prædicta Villa antiquitus habuerunt. Quare volumus & firmiter præcipimus quod prædicta Villa de Lenna sit liber Burgus in perpetuum & habeat omnes libertates & consuetudines liberas quas liberi Burgi nostri habent in omnibus bene & in pace, libere & quiete, & integre, plenarie & honorifice sicut prædictum est. Testibus Domino Cantuariensi Archiepiscopo, W. London Episcopo, G. filio Petri Comite Essex, R. Comite Cestriæ, Gaufrido de Say, &c. Data per manum Summi Præpositi de Beverl, &c. apud Lamhe Vicefimo Septimo Die Januarii Anno Regni nostri quinto.

B

C

Cart. 2 Johan.
n. 19.

N. 10.

Johannes Dei Gratia, &c. Sciatis non concessisse & hac præsentī Carta nostra confirmasse hominibus de Hertlepole quod sint liberi Burghenses, & quod habeant easdem libertates & leges in Villa sua de Hertlepole quos Burghenses nostri de Novo Castello super Tinam habent in Villa sua de Novo Castello. Quare volumus & firmiter præcipimus quod prædicti Burghenses habeant & teneant prædictas libertates & leges bene, & in pace, libere, & quiete, & integre sicut prædictum est. His Testibus Willielmo de Stutevill, Hugone Bard, Petro de Patell, Willielmo Briwer, Hugone de Neville, Roberto de Ros, Eustachio de Vescy, Petro de Bruis, &c. Data per manum S. Wellensis Archidiaconi apud Dunelm. Octavo Die Februarii, Regni nostri Anno Secundo.

D

E

[b] Note here, if the Burghesses were not resident in the Burgh, they were not to enjoy the Liberties of it,

[c] Note, from hence it appears there were a certain number of Liberties, which made a free Burgh, and they were no other than what were usually granted by Charter to free Burghs, and such as are ordinarily mentioned in these Charters.

F

REX Majori & Vicecomitibus London, Salutem. Cum per Cartas Progenitorum nostrorum quondam Regum Angliæ quas confirmavimus, concessum sit Civibus nostris Civitatis prædictæ quod Majorem & Aldermanos de se ipsis quos voluerint eligant & ipsos, nobis apud Westmonasterium non existentibus, Thesaurario & Baronibus nostris de Scaccario præsentent, ut ibidem prout moris est admittantur; Ac jam intellexerimus quod quamquam hujusmodi electiones per Majorem & Aldermannos nec non discretiores dictæ Civitatis ad hoc specialiter summonitos & præmunitos temporibus retroactis fieri consueverint, nonnulli tamen qui aliquod interesse in electionibus hujusmodi non habent nec habere debent electionibus illis ausu temerario se ingerunt, immiscent, & multociens electiones, quæ rite & pacifice fierent, suis validis clamoribus & importunis multipliciter impediunt & perturbant, ad intentionem quod tales eligerentur qui suis malefactis & erroribus postmodum favere possent, & ea sub dissimulatione dimittere impunita; quod si fieri permetteretur, in nostri ac Coronæ & dignitatis nostræ læsionem, necnon status Civitatis prædictæ subversionem civiumque nostrorum ibidem perturbationem & commotionem cederet manifeste. Nos igitur quieti & tranquillitati populi nobis subiecti providere & congruum remedium in hac parte volentes adhibere, ut tenemur, vobis præcipimus firmiter injungentes, quod ante tempus electionis Majoris Civitatis prædictæ proximo faciendæ per totam Civitatem illam & libertatem ejusdem ex parte nostrâ publice proclamari & firmiter inhiberi faciatis, ne quis hujusmodi electioni nisi qui de jure & secundum consuetudinem Civitatis prædictæ interesse debeat, illi intersit, quovis modo nec se de electione illa quoquo quæsito colore intromittat, neque eam impediatur, vel perturbet, sed quod electio illa per Aldermannos & alios Cives discretiores & potentiores Civitatis prædictæ ad hoc specialiter præmunitos & summonitos fiat & habeatur, prout secundum consuetudinem supradictam fuerit facienda. Scientes pro certo, quod si quem alio modo quam ut præmittitur electum nobis vel Thesaurario & Baronibus de Scaccario præsentaveritis, illum nullatenus admitemus, & omnes illos quos contrarium proclamationis & inhibitionis prædictarum inveneritis facientes arestetis, & eos prisonæ nostræ committatus ibidem moraturos, quousque pro eorum deliberatione duxerimus demandandum. Teste Rege apud Westmonasterium Septimo die Octobris.

Per Consilium.

EDwardus Dei Gratia Rex Angliæ, Dominus Hiberniæ & Dux Aquitaniæ Vicecomiti Bedford & Buckingham, Salutem. Quia ordinavimus quod Edwardus filius noster primogenitus in festo Pentecostes proximo futuro, Deo propitio, cingulo Militiæ decoretur, per quod de jure Coronæ nostræ in hujusmodi casu auxilium fieri nobis debet, tibi præcipimus quod de utroque Comitatu tuo duos Milites & de qualibet Civitate in Balliva tua duos Cives & de quolibet Burgo duos Burgenses vel unum secundum quod Burgus fuerit major vel minor venire facias coram nobis & consilio nostro apud Westmonasterium in Craftino Sanctæ Trinitatis proximo futuræ ad tractandum

Claus. 22. H. 6.
m. 25. Dors.
De Proclamatione faciendâ.

N. 11.

Retorn. Brev.
Parl 34 Ed. 1.
& Claus. 34
Ed. 1. m. 15.
in Cedula.

N. 12.

& ordinandum de auxilio nobis in casu prædicto faciendo, & ad consentiendum hiis quæ ordinabuntur in hac parte. Scire etiam facias Archiepiscopis, Episcopis, Abbatibus, Prioribus, & aliis viris religiosi per totam Ballivam tuam quod per se vel sufficientes procuratores vel attornatos suos tunc sint ibidem ad tractandum & ordinandum similiter de præmissis ac ad consentiendum eisdem prout superius est expressum, & habeas ibi nomina Militum, Civium & Burgensium prædictorum, & hoc Breve. Teste Meipso apud Wynton quinto die Aprilis, Anno Regni nostri tricesimo quarto. A

Inter Communia Brevia de Terminis Sanctæ Trinitatis, Anno Regni Regis Ed. 1. 34 Rot. vel N. 40. penes Remem. Regis in Scaccario. B

Anglic. de
auxilio Con-
cesso ad Mili-
tiam Regis.

N. 13.

Memorandum quod cum nuper Dominus Rex ordinasset quod Edwardus filius suus primogenitus in festo Pentecostes, Anno Regni sui tricesimo quarto Cingulo Militiæ decoraretur, Et Mandatum esset Archiepiscopis, Episcopis, Abbatibus, Prioribus, Comitibus, Baronibus, & aliis Magnatibus Regni quod essent coram ipso Domino Rege & Concilio suo apud Westmonasterium in Crastino Sanctæ Trinitatis proximo sequenti ad tractandum & ordinandum de auxilio Regis faciendo ad Militiam prædictam & ad consentiendum hiis quæ ulterius ordinarentur in hac parte, vel quod procuratores aut attornatos suos sufficienter instructos ad præmissa loco eorum facienda mitterent tunc ibidem. C

Ac etiam præceptum fuisse singulis Vicecomitibus Angliæ, quod eorum quilibet venire faceret de Comitatu suo ad præfatos diem & locum duos Milites & de qualibet Civitate Ballivæ suæ duos Cives, & de quolibet Burgo ejusdem Ballivæ suæ duos Burgenses, vel unum, &c. ad tractandum, ordinandum & consentiendum sicut prædictum est. D

Venerunt personaliter coram Rege & Concilio suo apud Westmonasterium, ad diem illum Antonius Bek Patriarcha Jerosolomitanus Episcopus Dunelmensis, W. de Langeton Coventrensis & Lichfieldensis, Radulfus de Baldok London, Episcopi, H. de Lacy Comes Lincolnæ, J. de Warena Comes Surriæ, R. de Monte Hermerii Comes Gloucestriæ & Hertfordiæ, H. de Boun Comes Herefordiæ, G. de Bello Campo Comes Warrwici, Robertus filius Walteri, Hugo le Dispenser, Johannes de Hastings, Hugo de Veer, Willielmus Martyn, Henricus le Tyeys, Johannès Lovel, Rogerus de Mortuomari, Johannes de Mohun, Alanus la Zouche, Willielmus de Leyburn, & Robertus de Burghersh, Custos Quinque Portuum cum quibusdam Baronibus Portuum eorundem. E F

*

Ac

Ac etiam per Procuratores & Attornatos Robertus Cantuariensis & Willielmus Eborum Archiepiscopi, Thomas Exoniensis, Richardus Herefordensis, Johannes Wintoniensis, Johannes Cicestrensis, Thomas Rossensis, Robertus Elyensis, Johannes Norwicensis, Johannes Lincolniensis, Simon Sarum, Willielmus Wigorniensis, Walterus Bathoniensis & Wellensis, & Johannes Karliolensis Episcopi; Abbates Westmonasterii, Sancti Edmundi, Sancti Augustini Cantuariæ, Sancti Albani, Glastoniæ, *Burgi* Sancti Petri, Rammeseye, Thorneye, Seleby, & Malmesbury, Sancti Petri Gloucestriæ; Rogerus Comes Norfolciæ & Marefcallus Angliæ, Thomas Comes Lancastrensis, Edmundus Comes Arundel, & quam plures alii Prælati, Magnates, & Proceres Regni, nec non de quolibet Comitatu Regni ejusdem duo Milites, & de qualibet Civitate duo Cives & de quolibet *Burgo* duo *Birgenses* electi per Communitates Comitatum, Civitatum, & *Burgorum* eorundem ad præmissa, loco Communitatum eorundem, tractanda, ordinanda & consentienda similiter venerunt.

Quibus prædictis omnibus congregatis coram Concilio Regis prædicto ipsisque ostenso per idem Concilium ex parte Regis quod de jure Coronæ Regiæ auxilium Domino Regi fieri debuit in casu prædicto; Ac etiam quod expensæ multiplices & alia quam plura onera eidem Domino Regi incumbunt ad rebellionem & malitiam Roberti de Brus proditoris ipsius Domini Regis & sibi in partibus Scotiæ adhærentium, qui adversus ipsum Regem jam in illis partibus guerram movere præsumpserunt, reprimendas.

Idem Prælati, Comites, *Barones*, & alii Magnates, nec non Milites Comitatum Tractatum super hoc cum deliberatione habentes considerantesque auxilium deberi ut prædictum est, & quam plura onera Regi incumbere propter guerram prædictam, tandem unanimiter Domino Regi concesserunt pro se & tota Communitate Regni tricesimam partem omnium bonorum suorum temporalium mobilium, quæ ipsos habere continget in Festo Sancti Michaelis proximo futuro, habendam pro auxilio eidem Domino Regi competentem ad Militiam filii sui prædicti, ac etiam in Auxilium Misarum quas ipse est facturus circa guerram prædictam; ita tamen quod ista concessio ipsis vel eorum Successoribus aut hæredibus futuris temporibus nullatenus cedat in præjudicium, nec in casu hujusmodi trahatur in exemplum, & quod in taxando bona prædicta excipiantur omnia quæ in taxatione Quintæ-Decimæ a Communitate Regni Domino Regi anno Regni sui decimo octavo concessæ propter exilium Judæorum fuerunt excepta.

Cives quidem & *Birgenses* Civitatum ac *Burgorum* ac cæteri de Dominicis Regis congregati & super præmissis tractatum habentes considerantesque onera Domino Regi incumbentia, ut præmittitur, eidem Domino Regi unanimiter concesserunt ob causas supradictas vicesimam partem bonorum suorum mobilium habendam ut prædictum est.

Memorandum quod ad crastinum Sanctæ Trinitatis proximo præteritum Prælati & cæteri Magnates Regni pro se & tota Communitate ejusdem Regni concesserunt Domino Regi Tricesimam bonorum suorum

Inter Communia Brevia de Term. Sancti Mich. Anno 34 Ed. 1. penes Remem. Thesaurar. in Scaccario.

suorum omnium temporalium extra Civitates, *Burgos*, & *Dominica Domini Regis*; & *Cives*, & *Burgenses*, & tenentes *Dominicorum prædictorum*, vicissim bonorum suorum tam ad Militiam *Edwardi filii Regis prædicti*, quam ad subsidium defensionis terræ *Scotiæ* contra *Robertum de Brus*, & ipsius *Complices inimicos Regis*, &c.

Retorn. Parl.
2 Hen. 5.

N. 14.

HÆc Indentura facta apud Ivelcestre Die Lunæ 12 Die Novembris, Anno Regni Regis Henrici Quinti post Conquestum secundo inter Walterum Hungerford Militem Vicecom. Somerset in pleno Comitatu eodem Die ibidem tento ex parte una, & Radulphum Hunt Majorem Civitatis Bathon. Johannem Skittish, Johannem Savage, & Johannem Haygoby Cives Civitatis prædictæ, qui de assensu totius Communitatis Civitatis prædictæ, Eligerunt Ricardum Wydecombe, & Willielmum Radestoke Duos Cives pro Communitate Civitatis prædictæ, Essend. apud Westminster ad Parlamentum Domini Regis tenendum Die Lunæ proximo post Octavas Sancti Martini proximo futuras, secundum formam Brevis Domini Regis quod est huic annex. eidem Vicecomiti inde Direct. & Johannem Herewode, Johannem Russel, Walterum Dyere, & Lucam Wilton *Burgenses Burgi* de Wells, qui in forma prædicta Eligerunt Thomam Dynt, & Johannem Hindon duos *Burgenses Burgi* prædicti Essend. tunc ibidem pro Communitate *Burgi* prædicti secundum formam prædicti Brevis. Et Johannem Ward, Willielmum Goffe, Ricardum Ward, & Thomam Cave, *Burgenses Burgi* de Bruggewater, qui in forma prædicta Eligerunt Willielmum Gascoigne, & Johannem Redwelly duos *Burgenses Burgi* prædicti secundum formam dicti Brevis. Et Thomam Wiger, Walterum Portman, Edmundum Tailleir, & Johannem Northmore, *Burgenses Burgi* de Taunton, qui in forma prædicta Eligerunt Johannem Merchant & Edmundum Dyere duos *Burgenses Burgi* prædicti, Essend. tunc ibidem pro Communitate *Burgi* prædicti secundum formam prædicti Brevis, Dantes & Concedentes Civibus & *Burgensibus* prædictis plenam & sufficientem potestatem, pro se & Communitate Civitatis & *Burgorum* prædictorum ad faciendum & consentiendum iis quæ tunc ibidem de Communi Consilio ordinari contigerit super negotiis inibi Tractandis. In cujus Rei Testimonium, &c.

Here were Returned to this Parlement Citifens only for the City of Bath, and three Burghs, Wells, Bridgwater and Taunton in the County of Somerset. Three of the present Burghs being omitted, Minehead, Milborn-Port and Ilchester, notwithstanding the County-Court was holden there, in which the Election was made.

The words of the Indenture or Return for Dorsetshire for this Parlement are the same with the words of this, (mutatis mutandis) there being then the same Sheriff for both Counties. Pool and Corf-Castle, two only of the present Burghs, were omitted.

Henricus

Breve & Return. Parl.
2 Hen. 5.

Wiltshire.

N. 15.

Henricus Dei gratia Rex Angliæ & Franciæ, & Dominus Hi-
bernæ Vicecomiti Wilts, Salutem: Quia de avifamento con-
silio nostri, pro quibusdam arduis & urgentibus negotiis nos, statum
& defensionem regni nostri Angliæ ac Ecclesiæ Anglicanæ contingen-
tibus, quoddam Parliamentum nostrum apud Westmonast. die Lunæ
A proximo post Octavas Sancti Martini proximo futuras teneri ordina-
vimus, & ibidem cum Prælati, Magnatibus & Proceribus dicti regni
nostri colloquium habere & tractatum: Tibi præcipimus firmiter
injungentes, quod facta proclamatione in proximo Comitatu tuo
post receptionem hujus Brevis, tenend. de die & loco prædictis, duos
Milites gladiis cinctos, magis idoneos & discretos de Comitatu præ-
dicto; & de qualibet Civitate Comitatus illius duos Cives; & de
B quolibet Burgo duos Burghenses de discretioribus & magis sufficien-
tibus libere & indifferenter per illos qui Proclamationi hujusmodi
interfuerint, juxta formam statuti inde editi & provisi, eligi ac nomi-
na eorundem Militum Civium & Burghensium sic eligendorum in qui-
busdam Indenturis inter te & illos, qui hujusmodi electioni interfue-
rint, inde conficiendis, licet hujusmodi eligendi præsentibus vel ab-
sentes fuerint, inferi eosque ad dictos diem & locum venire facias. Ita
quod iidem Milites plenam & sufficientem potestatem pro se & Com-
munitate Comitatus prædicti & dicti Cives & Burghenses pro se &
C Communitatibus Civitatum & Burghorum prædictorum divisim ab ipsis
habeant ad faciend. & consentiend. hiis, quæ tunc ibidem de com-
muni consilio dicti regni nostri, favente domino, ordinari contigerit
super negociis antedictis. Ita quod pro defectu potestatis hujus-
modi seu propter improvidam electionem Militum, Civium aut
Burghensium prædictorum dicta negocia infecta non remaneant quo-
vis modo. Nolumus autem, quod tu seu aliquis alius Vicecomes
regni nostri prædicti aliququaliter sit electus & electionem tuam in ple-
no Comitatu tuo factam distincte & aperte sub sigillo tuo & sigillis
D eorum, qui electioni illi interfuerint, nobis in Cancellaria nostra ad
dictos diem & locum certifies indilate, Remittens nobis alteram
partem Indenturarum prædictarum præsentibus consutam, unâ cum
hoc Brevi. Teste meipso apud Westmonast. Vicesimo sexto die Sep-
tembris, Anno Regni nostri secundo.

WROTEHAM.

E Dorso. Ego Elias de la Mare, Vicecomes, vobis significo, quod
Breve istud in omnibus executus sum secundum te-
norem & effectum ejusdem, prout in altera parte In-
denturarum inde confectarum & in quadam cedula
huic Brevi consuta plenius continetur.

F

Hac

HÆc Indentura facta apud Wilton in pleno Comitatu Wilts,
 tento die Martis proximo antè festum Omnium Sanctorum,
 Anno Regni Regis Henrici quinti post Conquestum secundo inter
 Eliam de la Mare Vicecomitem Comitatus prædicti ex parte una, &
 Willielmum Danngens, Johannem atte Borwe, Willielmum Besiles,
 Robertum Erle, Nicholaum Lye, Robertum Afshelegh, Thomam
 Martyn, Johannem Wichford, Laur. Gowayn, Thomam Godefray, A
 Johannem Brid, Johannem Benger, Johannem Byngham, Johannem
 Niweton, Henr. Stauley, Johannem Perham, Rogerum Alewyne,
 Johannem Hardy, Thomam Hat, Thomam Vellard, Johannem Bil-
 lyndon, Rogerum Wodman, Johannem Coof, Thomam Shawe,
 Thomam Stabbere, Ricardum Hoke, Jacobum Hemyngby, Gal-
 fridum Cowebrigge, Willielmum Depeden, & Johannem Warham
 ex parte altera, testatur quod prædictus Willielmus Danngens & om-
 nes alii superius nominati ad diem & locum supradictos existentes, B
 & per prædictum Vicecomitem Virtute Brevis Domini Regis eidem
 Vicecomiti directi & huic Indenturæ confuti singulariter examinati
 elegerunt Willielmum Esturmy Chivaler, & Thomam Bonham Mi-
 lites pro Communitate Comitatus prædicti, & similiter elegerunt
 Walterum Shirle & Johannem Becket Cives pro Communitate Ci-
 vitatis Novæ Sarum, Johannem Harleston & Johannem Whithorn Bur-
 geneses pro Communitate Burgi de Wilton, Willielmum Covyntre
 & Thomam Covyntre Burgeneses pro Communitate Burgi de Devyses, C
 Thomam Hiwey & Johannem Goore Burgeneses pro Communitate
 Burgi de Malmesbury, Johannem Brid & Thomam Hatheway Bur-
 geneses pro Communitate Burgi de Marleborgh, Robertum Salman
 & Robertum Roude Burgeneses pro Communitate Burgi de Calne in
 Comitatu prædicto, ad omnia & singula juxta tenorem prædicti
 Brevis in Parlamento dicto Domini Regis apud Westmonast. die
 Lunæ proximo post Octavas Sancti Martini proximo futuras, assign.
 & ordinat. cum aliis communicand. tractand. faciend. similiter & D
 terminand. prout dictum Breve exigit & requirit. In cujus rei te-
 stimonium, uni parti istius Indenturæ penes prædictum Vicecomi-
 tem remanenti prædictus Willielmus & omnes alii superius nomi-
 nati sigilla sua apposuerunt; Alteri vero parti ejusdem Indenturæ
 penes prædictum Willielmum & omnes alios superius nominatos re-
 sidenti, prædictus Vicecomes sigillum suum apposuit. Dat. die, loco
 & anno supradictis. *

Nomina

Nomina Militum, Civium & Burgensium Comitatus Wilts, Electorum ad Parliamentum Domini Regis apud Westmonast. die Lunæ proximo post Octavas Sancti Martini, Anno Regni Regis Henrici quinti post Conquestum secundo.

A

B

Wilts.

Manucaptores Willielmi Esturmy Chivaler, unius Militum electi pro se & Communitate Comitatus prædicti ad Parliamentum prædictum. *Petrus Braknal. Willielmus Raymond.*

Manucaptores Thomæ Bonham alterius Militum electi ad Parliamentum prædictum. *Johannes Denyas. Johannes Cory.*

C

Civitas
Nova
Sarum.

Manucaptores Walteri Shirle unius Civium Civitatis prædictæ electi ad Parliamentum prædictum. *Johan. Durnesford. Johan. Coscombe.*

Manucaptores Johannis Beckot alterius Civium ejusdem Civitatis electi ad Parliamentum prædictum. *Willielm. Donyng. Willielmus Slegge.*

D

Wilton.

Manucaptores Johannis Harleston unius Burgenf. ejusdem Burgi electi ad Parliamentum prædictum. *Johannes Persbore. Johannes Richman.*

Manucaptores Johannis Whithorn alterius Burgenf. ejusdem Burgi electi ad Parliamentum prædictum. *Ricardus Lamprey. Johannes Digon.*

E

Devyses.

Manucaptores Willielmi Covyntre unius Burgensium ejusdem Burgi electi ad Parliamentum prædictum. *Johannes Pshore. Johannes Richman.*

F

Manucaptores Thomæ Covyntre alterius Burgensium ejusdem Burgi electi ad Parliamentum prædictum. *Willielmus Neek. Henricus Lamkyn.*

Malmesbury.

Malmshury.	Manuautores Thomæ Hiwey unius Burgens. ejusdem Burgi electi ad Parliamentum prædictum.	Nicholaus Penpas. Willielmus Palmer.	A
	Manuautores Johannis Goore alterius Burgens. ejusdem Burgi electi ad Parliamentum prædictum.	Ricardus Felice. Willielmus Robardes.	
Marleburgh.	Manuautores Johannis Brid unius Burgens. ejusdem Burgi electi ad Parliamentum prædictum.	Ricardus Hesham. Johannes Bide.	B
	Manuautores Thomæ Hathewey alterius Burgens. ejusdem Burgi electi ad Parliamentum prædictum.	Johann. Shirwode. Willielmus Warner.	
Calne.	Manuautores Roberti Salman unius Burgens. ejusdem Burgi electi ad Parliamentum prædictum.	Robertus Grene. Robertus Lary.	C
	Manuautores Roberti Roude alterius Burgens. ejusdem Burgi electi ad Parliamentum prædictum.	Willielmus Stokke. Johannes Domel.	

The Sheriff, notwithstanding he says in that part of the Return before the Indenture, That he had in all things executed the Writ according to the Tenor and Effect thereof, yet returned only two Citisens for New Sarum, and Burgeses for only five Burghs; having omitted nine of the present Burghs, viz. Downton, Hindon, Westbury, Heitsbury, Chippenham, Crickelade, Bedwin, Lutgershal, Old Sarum, and Wootton-Basset; And the Citisens and Burgeses sent to this Parlement were chosen by the same Persons, that chose the Knights of the Shire.

Retorn. Parl.
2 Hen. 5.

The Return for Devonshire for the same Parlement was without Indenture, only the Names of the Knights, Citisens and Burgeses, with their Manuautores or Sureties, were returned. And that two Citisens only for Exon, and Burgeses for five Burghs, Plympton, Tottones, Tavystok, Barnstaple, and Dertmouth; And then the Return is closed with these words, Et non sunt plures Civitates, seu Burgi infra Comitatum prædictum. The Sheriff having omitted six of the present Burghs, viz. Plymouth, Okehampton, Honiton, Ashburton, Beralston, and Tiverton.

R E X

R Ex universis & singulis Vicecomitibus, Majoribus, Ballivis; Constabulariis, Ministris & aliis fidelibus suis tam infra libertates quam extra ad quos, &c. Salutem. Sciatis, quod cum secundum consuetudinem in regno nostro Angliæ hætenus obtentam & approbatam, homines de antiquo dominico Coronæ Angliæ quieti sint & esse debeant a præstatione Theolonei per totum regnum Angliæ. Vobis mandamus, quod homines de Manerio de Aisbertone, quod de antiquo Dominico Coronæ Angliæ existit, sicut per quandam Certificationem per Thesaurarium & Camerarios Domini Ricardi nuper Regis Angliæ secundi post conquestum in Cancellariam suam de Mandato ipsius nuper Regis missam, & in filaciis Cancellariæ ejusdem nuper Regis residentem plenè liquet, de hujusmodi præstatione Theolonei vobis præstanda quietos esse permittatis, juxta consuetudinem supradictam. In cujus, &c. Teste Rege apud Westmonast. vicesimo sexto die Aprilis.

Pat. 3 H. 4.
p. 2. M. 23.

N. 16.

Note this then a Town in Antient Demeas'n, and no Burgh, yet in 26 E. 1. and 8 Hen. 5. it sent Members to Parlement.

*London. by Inspeximus, Tempore Hen. 1.
Hen. 2. Ric. 1.*

R Ex omnibus ad quos, &c. salutem. Inspeximus tenorem Cartæ Domini * Henrici quondam Regis Angliæ Progenitoris nostri factam in hæc verba. Henricus Dei gratia Rex Angliæ Archiepiscopo Cantuariensi, & Episcopis, & Abbatibus, & Comitibus, & Baronibus, & Justiciariis, & Vicecomitibus & omnibus fidelibus suis Francis & Anglicis totius Angliæ, Salutem. Sciatis me concessisse Civibus meis Londoniæ *Tenendum* Middlesexiam ad firmam pro trecentis libris ad computum ipsis & hæredibus suis de me & hæredibus meis. Ita quod ipsi Cives *ponent* Vicecomitem qualem voluerint de seipsis & Justiciarium quemcunque vel qualem voluerint de seipsis ad custodienda placita Coronæ meæ, & ad eadem placitanda, & nullus alius erit Justiciarius super ipsos homines Londoniæ, & Cives non placitabunt extra muros Civitatis pro ullo placito, & sint quieti de [a] *Schot*, & de [b] *Loth*, & de [c] *Danegeld*, & de [d] *Murdro* & nullus eorum faciat bellum, & si quis Civium de placitis Coronæ implacitatus fuerit per [e] *Sacramentum* quod judica-

Pat. 2 E. 4.
p. 5. M. 23.
* Hen. 1.

N. 17.

[e] Shall purge himself by Oath.

[a] [b] *Scot* and *Lot*, Publick Impositions or Contribution.

[c] *Danegeld*. See Notes upon the Charter of Yarmouth.

[d] *Murdrum*, signifies not only the Crime, but the Mulct or Pecuniary Punishment for that Crime. So that to be free from Murder, was, that the place where the Murder was committed, and the Murtherer fled, should not be Fined or Amerced for not producing of him. See *Leg. Ed. Conf.* c. 15. *Gul.* 1. c. 26. 46 *Hen.* 1. c. 91.

Scot and *Lot*
what?
Danegeld
what?
Murder what?

tum fuerit in Civitate se *disfrationet* homo London, & infra muros Civitatis nullus [f] hospitetur, neque de mea familia neque de alia vi alicui hospitium liberatur. Et omnes homines Londoniæ sint quieti & liberi, & omnes eorum res per totam Angliam & per portus maris de Theoloneo & Passagio & Lestagio & omnibus aliis consuetudinibus, & Ecclesiæ & Barones [g] & Cives habeant & teneant bene & in pace [h] Socas suas cum omnibus consuetudinibus. Ita quod hospites qui in Sokis hospitabuntur nulli dent consuetudines, nisi illi cujus [i] Soka fuerit vel ministro suo quem ibi posuerit, & Homo Londoniæ non judicetur in misericordia pecuniæ nisi ad fa [k] Were, scilicet ad centum Solidos, dico de placito quod ad pecuniam pertineat, & amplius non sit [l] Meskenninge in [m] Hustengo neque in [n] Folkesmot, neque in aliis placitis infra Civi-

No Stranger to be lodged in the City of London, &c.

Barons of London.

Paris mistaken in his Reason, why Londoners were called Barons.

The Citifens and Inhabitants of York, Chester and Warwick were called Barons.

* In verbo. What the Barons of London were.

The Citifens of Orleans and Bourges in France were called Barons. The price of a Citifens Life.

Miskenninge what?

* Col. 957. n. 10.

Hustengs what?

Hustengs not appropriated to London.

Folkesmot what?

[f] No Stranger in these times was lodged, or had his abode in the City, unless placed by the Kings Marshal, or by the Guardian, or Alderman of the Ward or Liberty, and for his being so lodged or placed, he gave to him or his Servant Custom, *i. e.* Money, as below.

[g] Barons. The Citifens or Men of London, who for the Dignity of the City, and Antient Liberties of the Citifens, were wont to be called Barons. *Quos propter Civitatis Dignitatem, & Civium antiquam Libertatem Barones consuevimus appellare, Paris in A.D. 1253. The same Author in A. D. 1258. Londinum destinati convocaverunt totius Civitatis Cives, quos Barones vocant, being sent to London they called together the Citifens of the whole City, which they call Barons. But for the latter part of the Reason which the Monk gives, why they were called Barons, it was only his Fañcy: For Baron was a Norman or French word, and came in use here after the Conquest; so that the Citifens could not have that Appellation for any antient Liberties they enjoyed, for it was then but 187 years since the Conquest, which was not time enough to make them Antient, according to the meaning of the word in such Cases. And further, the Citifens of York and Chester, the Burgeses of Warwick, and of other famous Cities and Towns that were Endowed with large and Royal Privileges, were called Barons, yet the Citifens or Burgeses, or Inhabitants of any of these, or other places, were not so termed in Domesday-Book, nor had they then any extraordinary Liberties: Therefore since the making of that Book they must have that Title, and that for the great Privileges and Immunities granted by the King, and not otherwise; perhaps for some signal Service done him, as Sir Henry Spelman * truly informs us. But the word Barones in this Charter seems to mean the better sort of Citifens, that is, the Guardians or Aldermen of the Wards; for the words are, Et Barones, & Cives, which put a Distinction between the greater and ordinary Citifens. Nor was this Appellation used here in England only, for the Citifens of Orleans, and Bourges in France, are so called.*

[h] Their Liberties or Wards, with all Customs or Payments.

[i] Except to the Guardian, or as now, the Alderman of the Ward, or his Servant.

[k] A Citifens of London shall not be Amerced beyond his Were, that is, the price of his Head, or Life, which was 100 Shillings.

[l] Meskenninge from the Saxon Cenninge or Cennan, *citare, vocare, and mis*, or in French *mes, male*. So Miskenninge was, when one Man falsly or unduly prosecuted another, or as * Brompton hath it, Myskenning, *i. e.* *Variatio loquelæ in Curia*, a Variation of the Plea in Court; that is, when a Man changes and leaves his first Plea, and takes up another.

[m] Hustengus or Hustengum, either from *Hus* a House, and *Ting*, or Thing *Causa*, a House where Causes were tryed. Or from the Saxon word *Hphst*, or *Hphstia*, *Supremum*, Highest, and Thing, *Judicium*, a Court or Judgment according to Mr. Sommer; so that Husting signifies in this sense the Supreme Court of the City of London, as in truth it is. But the Name was not appropriated to the Chief Court in London only, for Winchester, Lincoln, York, the Five-Ports, and the Isle of Shipwey have their Hustings.

[n] Folkesmot, from *fist*, People, or as they are often called *Folke*, and *Mote*, a Meeting or Convention. A Convention and Court of the People, which in Shires and Counties was, and now is, the Sheriffs Turn, and in Cities and Burghs may be called the Burgh-Mote, or Sheriffs Court.

tatem,

tatem, & Hustengum sedeat semel in Ebdomada, videlicet, die Lunæ, & terras & [o] vadimonia & debita Civibus meis habere faciam infra Civitatem & extra, & de terris de quibus ad me clamaverint rectum eis tenebo lege Civitatis. Et si quis theoloneum vel consuetudinem a Civibus meis Londoniæ ceperit, Cives Londoniæ capiant de Burgo vel de Villa ubi theoloneum vel consuetudo capta fuerint quantum homo Londoniæ pro theoloneo dedit, & proinde de dampno receperit, & omnes debitores qui Civibus London debita debent eis reddant in Londonia vel in Londoniâ se distracionem quod non debent, quod si reddere noluerint, neque quod non debent ad distracionandum venire, tunc Cives Londoniæ quibus debita sua debentur capiant namia sua in Civitate London de Burgo vel Villa vel de Comitatu in quo manet qui debitum debet. Et Cives Londoniæ habeant [p] fugationes suas ad fugandum sicut melius & plenius habuerunt Antecessores eorum, scilicet, in Chiltre & Middlesexe & Surreie. Testibus Episcopo Wintoniensi, & Roberto filio Richier & Hugone Bigot & Alnero de Toteneis & Willielmo de alba Spina & Huberto Regis Camerario & Willielmo de Mountfichet & Haugulfo de Taney & Johanne Bellet & Roberto filio Siwardi apud Westmonasterium.

[o] Payns.

[p] Their Huntings.

There is the same Charter by Inspeximus in 1 Hen. 4. 25 Maii.

INSPEximus insuper cartam Domini Henrici Secundi quondam Regis Angliæ Progenitoris nostri factam in hæc verba. Henricus Rex Angliæ, & Dux Normannia & Aquitania & Comes Andegavia Archiepiscopis, Episcopis, Abbatibus, Comitibus, Baronibus, Justiciariis, Vicecomitibus, Ministris & omnibus fidelibus suis Francis & Anglis totius Angliæ, Salutem. Sciatis me concessisse Civibus meis Londoniæ quod nullus eorum placitet extra muros Civitatis Lundoniæ de ullo placito præter placita de tenuris exterioribus (exceptis [a] Monetariis & Ministris meis.) Concessi etiam eis quietanciam Murdri infra urbem & in * [b] Portfoka, & quod nullus eorum faciat duellum, & quod de placitis ad Coronam pertinentibus se possint [c] distracionare secundum antiquam consuetudinem Civitatis prædictæ, & quod infra muros Civitatis nemo capiat hospitium per vim vel per liberationem Marefcalli. Hoc etiam eis concessi, quod omnes Cives Lundoniæ sint quieti de Theoloneo & Lestagio per totam Angliam & per portus maris, & quod nullus de [d] misericordia pecuniæ judicetur nisi secundum legem Civitatis quam habuerunt tempore Regis Henrici Avi mei, & quod in Civitate in nullo placito sit Meskenninga, & quod Hustingum semel tantum in ebdomada teneatur, & quod terras suas & tenuras & vadimonia & omnia debita iuste habeant quicunque eis debeat. Et de terris suis & tenuris quæ infra urbem sunt rectum eis teneatur secundum consuetudinem Civitatis, & de omnibus debitis suis quæ accommodata fuerint apud Londoniam, & de vadimoniis ibidem factis placita apud Lundoniam teneantur. Et si quis in tota Anglia Theoloneum vel consuetudinem ab hominibus Lundoniæ ceperit, postquam ipse a recto defecerit, Vicecomes Lundoniæ *Namius* inde apud Lundoniam capiat. Concedo

Hen. 2.

[a] Which were reserved to his own Court.

* See Notes on this Charter.

[c] Vide Carta Hen. 1.

[d] Vide Carta Hen. 1.

[b] Portfoka, the extent of their Jurisdiction or Liberty from the Gates of the City.

Portfoka, what?

etiam eis, quod habeant fugationes suas ubicunque eas habuerunt tempore Regis Henrici Avi mei. Insuper etiam ad emendationem Civitatis eis concessi quod omnes sint quieti de [e] Bridtol, & de [f] Childwite, & de [g] Jeresgieue, & de [h] Scotale, ita quod Vicecomes noster Londoniæ vel aliquis alius Ballivus Scotale non faciat. Has prædictas consuetudines eis concedo, & omnes alias libertates & liberas consuetudines quas habuerunt tempore Regis Henrici Avi mei quando meliores vel liberiores habuerunt. Quare volo & firmiter præcipio, quod ipsi & hæredes eorum hæc omnia prædicta hæreditarie habeant & teneant de me & de meis hæredibus. Testibus T Archiepiscopo Cantuariensi R Episcopo Londinensi Ph Episcopo Baiocensi, Ern Episcopo Lexoviensi, T Cancellario, R de novo Burgo R de Sancto Walrico R de Warennæ Walth Maminot Ricardo de Lucy Guar filio Geroldi Ma Biset Loc de Ballolio, apud Westmonasterium.

Ric. I.

Inspeimus etiam Cartam Domini Ricardi primi quondam Regis Angliæ Progenitoris nostri factam in hæc verba. Ricardus Dei Gratia Rex Angliæ, Dux Normanniæ, Aquitaniæ, Comes Andegaviæ, Archiepiscopis, Episcopis, Abbatibus, Comitibus, Baronibus, Justiciariis, Vicecomitibus, Ministris, & omnibus fidelibus suis Francis & Anglis totius Angliæ, Salutem. Sciatis nos concessisse Civibus nostris Londoniæ, quod nullus eorum placitet extra muros Civitatis Londoniæ de ullo placito præter placita de tenuris exterioribus (exceptis Monetariis & Ministris nostris.) Concessimus etiam eis quietanciam Murdri infra urbem & in Portsoka, & quod nullus eorum faciat duellum, & quod de placitis ad Coronam pertinentibus se possint disrationare secundum antiquam consuetudinem Civitatis, & quod infra muros Civitatis nemo capiat hospitium per vim vel per liberationem Marefcalli. Hoc etiam eis concessimus quod omnes Cives Londoniæ sint quieti de Theloneo & Lestagio per totam Angliam & per portus maris, & quod nullus de misericordia pecuniæ judicetur nisi secundum legem Civitatis quam habuerunt tempore Regis Henrici Avi Henrici Patris nostri. Et quod in Civitate in nullo placito sit Veskenninga, & Hustingum semel tantum in ebdomada teneatur, & quod terras suas & tenuras, & vadimonia & debita omnia iuste habeant quicunque eis debeat, & de terris suis & tenuris quæ infra urbem sunt rectum eis teneatur secundum consuetudinem Civitatis, & de omnibus debitis suis quæ accommodata fuerint apud Londoniam teneantur. Et si quis in tota Anglia Theoloneum vel consuetudinem ab hominibus Londoniæ ceperit postquam ipse a recto defecerit, Vicecomes Londoniæ *namium* inde apud Londoniam capiat. Concedimus etiam eis quod habeant fugationes suas ubicunque eas habuerunt tempore Regis Henrici Avi Henrici Patris nostri. Insuper etiam ad emen-

* Vid. Chartam. Hen. I.

Bridtol.
Childwite and
Leirwite
what?
Jeresgieue or
Geresgieue
what?
Scotale what?

[e] Bridtol, that is, Bridge-Toll, Money paid for passing over a Bridge.

[f] The same with Leirwite, Money paid, or a punishment for corrupting a Bond-Maid.

[g] Jeresgieue, or Geresgieue, the same that Geresuma, a Bribe or Reward given to the Kings or other Officers, for Connivence, and being favourable in their Office.

[h] Scotale, See the notes upon Walsford Charter, Letter [a].

dationem

dationem Civitatis eis concessimus, quod omnes sint quieti de Bridtol,
 & de Childwite, & de Jereſgieue, & de Scotale, ita quod Vicecomes
 noſter Londoniæ vel aliquis alius Ballivus Scothale non faciat. Has
 prædictas conſuetudines eis concedimus & omnes alias libertates & li-
 beras conſuetudines quas habuerunt tempore Regis Henrici Avi Hen-
 ricī Patris noſtri quando meliores vel liberiores habuerunt. Quare
 volumus & firmiter præcipimus, quod ipſi & hæredes eorum hæc omnia
 prædicta hæreditarie habeant & teneant de nobis & hæredibus noſtris.
 A Teſtibus Huberto Cantuarienſi Archiepiſcopo, Ricardo Londinenſi,
 Hugone Dunelmenſi, Gileberto Roſſenſi, Hugone Lincolnienſi Epiſ-
 copis, Ran Comite Ceſtriæ, Ricardo Comite de Clare, Wil-
 lielmo Mareſcallo, Rogero Bigot, Gaufrido filio Petri, Hugone Bar-
 dolfe, Willielmo Briewer, Willielmo de Warennæ. Data per manum
 Willielmi Elienſis Epiſcopi Cancellarii noſtri apud Wintoniam Vice-
 ſimo ſecundo die Aprilis, Anno Regni noſtri quinto.

B
 I Nſpeximus inſuper quandam aliam cartam ejuſdem Domini Regis
 Progenitoris noſtri factam in hæc verba. *Ricardus Dei Gratia Rex*
Angliæ, Dux Normanniæ, Aquitanniæ, & Comes Andegaviæ, Archie-
 piſcopis, Epiſcopis, Abbatibus, Comitibus, Baronibus, Juſticiariis,
 Vicecomitibus, Senefcallis, Caſtellanis, Conſtabulariis, Ballivis,
 Miniſtris & omnibus fidelibus ſuis, Salutem. Noverit *Univerſitas*
 C veſtra nos pro Salute animæ noſtræ & pro Salute animæ Henrici Regis
 Patris noſtri, & animarum antecellorum noſtrorum, necnon & pro
 communi utilitate Civitatis noſtræ Londoniæ, & totius Regni noſtri
 conceſſiſſe, & firmiter præcepiſſe, ut omnes Kidelli qui ſunt in Tha-
 miſia amoveantur ubicunque fuerint in Tamifiſia; & ne de cætero Ki-
 delli alicubi ponantur in Tamifiſia. Quietum etiam clamavimus omne
 id quod Cuſtodes Turris noſtræ Londoniæ annuatim percipere ſole-
 bant de prædictis Kidellis. Quare volumus & firmiter præcipimus, ne
 D aliquis Cuſtos præfatæ Turris aliquo tempore poſt hoc aliquid exigat
 ab aliquo, nec aliquam demandam aut gravamen ſive moleſtiam ali-
 cui inferat occasione prædictorum Kidellorum. Satis enim nobis con-
 ſtat, & per venerabilem Patrem noſtrum Hubertum Cantuarienſem
 Archiepiſcopum & per alios fideles noſtros nobis ſufficienter datum
 eſt intelligi, quod maximum detrimentum & incommodum prædictæ
 Civitati noſtræ Londoniæ, nec non & toti regno noſtro occasione
 Kidellorum illorum proveniebat, quod ut firmum & ſtabile perſeve-
 ret imperpetuum præſentis paginæ inſcriptione & ſigilli noſtri appoſi-
 tione communivimus. His Teſtibus Huberto Cantuarienſi Archie-
 piſcopo, Johanne Comite Moritoniæ, Ran Comite Ceſtriæ,
 Roberto Comite Leiceſtriæ, Willielmo Comite Arundel, Comite
 Willielmo Mareſcallo, Willielmo de Sanctæ Mariæ Eccleſia, Petro
 filio Hereberti, Matthæo fratre ſuo, Sym de Kyma, Seherio
 de Quinceo. Data per manum Magiſtri Eufachii Sarum Decani Vi-
 ces Cancellarii tunc agentis apud Inſulam * Andeliacam decimo
 F quarto die Julii, Regni noſtri Anno octavo.

Ric. I. Chart. 2.

Note this.

* Isle of An-
dely in Nor-
mandy.

London.

London. I Johannis.

Cart. Antiq.
C. n. 26.

N. 18.

* The same
with *Gereſuma*,
ſee *Walling-*
ford Chart.* I Johannis,
M. 20.

Johannes Dei Gratia, &c. Archiepiscopis, &c. Sciatis. Nos concessisse Civibus nostris Londoniæ, quod nullus eorum placitet extra muros Civitatis Londoniæ de nullo placito præter placita de tenuris exterioribus, exceptis Monetariis & Ministris nostris. Concessimus etiam eis quietanciam murdri infra urbem & in Portsocha, & quod nullus eorum faciat duellum, & quod de placitis ad coronam pertinentibus se possint distrationare secundum antiquam consuetudinem Civitatis, & quod infra muros Civitatis neque in Portsocha nemo capiat hospitium per vim vel per liberationem Mareſcalli. Hoc etiam concessimus quod omnes Cives Londoniæ sint quieti de Theloneo & Lestagio & omni alia consuetudine per omnes terras nostras citra mare & ultra & quod nullus de misericordia pecuniæ judicetur nisi secundum legem Civitatis quam habuerunt tempore Regis Henrici Avi Henrici Patris nostri. Et quod in Civitate in nullo placito sit Meskenninga, & quod Huſtinga semel tantum in ebdomada teneatur & quod terras suas & tenuras & vadimonia & debita omnia juste habeant quicunque eis debeant. Et de terris suis & tenuris quæ infra urbem sunt eis rectum teneatur secundum consuetudinem Civitatis, & de omnibus debitis suis quæ accommodata fuerunt apud Londoniam & de vadimoniis ibidem factis placita apud Londoniam teneantur. Et si quis in aliquam terrarum noſtrarum citra mare vel ultra sive in portibus maris citra vel ultra Theloneum vel aliquam aliam consuetudinem ab hominibus London ceperit postquam ipse a recto defece- rit Vicecomites London *Namium* inde apud London capiant. Concessimus etiam eis quod habeant fugationes suas ubicunque eas habuerunt tempore Regis Henrici Avi Henrici Patris nostri. Insuper etiam ad emendationem Civitatis eis concessimus quod omnes sint quieti de Bridtol & de Childwite & * Jereſleue & de Scotale, ita quod Vicecomes noster Londoniæ nec aliquis alius Ballivus Scotale non faciat. Has prædictas consuetudines eis concessimus & omnes alias libertates & liberas consuetudines quas habuerunt tempore Henrici Regis Avi Patris nostri quando meliores & liberiores habuerunt. Quare volumus & firmiter præcipimus quod ipsi & hæredes eorum hæc omnia prædicta hæreditarie & integre habent & teneant de nobis & hæredibus nostris. Testibus Huberto Cantuariensi Archiepiscopo Cancellario nostro, W. Londoniæ Episcopo, &c. Data per manum prædicti Huberti Cantuariensis Archiepiscopi Cancellarii nostri apud Sorham decimo Septimo die Junii, Anno Regni nostri primo.

*The Citifens of London gave 3000 Marks for the Confirmation of their Liberties by this Charter, as appears by the * Oblata Roll of this year, and it was left in the Hands of Geofry Fitz-Peter until they paid the Money.*

Cives London dant Domino Regi tria Millia Marcarum pro habenda confirmatione Domini Regis de Libertatibus suis in Carta, & liberabitur Galfrido filio Petri per sic, Quod si illa tria millia Marcarum volunt dare suam Cartam habebunt, sin autem non, Cartam non habebunt.

Winton.

Winton. I Ric. I.

A Ricardus Dei Gratia Rex Angliæ, Dux Normanniæ, &c. Archiepiscopis, Episcopis, Abbatibus, Comitibus, Baronibus, Justiciariis, Vicecomitibus, Ministris & omnibus Ballivis & fidelibus suis totius terræ suæ, Salutem. Sciatis nos concessisse Civibus nostris Wintoniæ *de Gilda Mercatoria*, quod nullus eorum placitet extra muros Civitatis Wintoniæ de ullo placito præter placita de tenuris exterioribus, exceptis Monetariis & Ministris nostris. Concessimus etiam eis quod nullus eorum faciat duellum, & quod de placitis ad Coronam nostram pertinentibus se possint distracionare secundum antiquam consuetudinem Civitatis. Hæc etiam eis concessimus quod omnes

B Cives Wintoniæ *de Gilda Mercatoria* sint quieti de Theloneo & Lestagio & Pontagio in feria & extra & per portus maris omnium terrarum nostrarum citra mare & ultra, & quod nullus de Misericordia pecuniæ judicetur nisi secundum antiquam legem Civitatis quam habuerunt tempore antecessorum nostrorum, & quod terras & tenuras suas & vadimonia & debita omnia juste habeant quicunque eis debeat, & de terris suis & tenuris quæ infra urbem sunt rectum eis teneatur secundum consuetudinem Civitatis, & de omnibus debitis suis quæ accom-

C modata fuerint apud Wintoniam & de vadimoniis ibidem factis placita apud Wintoniam teneantur, & si quis in tota terra nostra Theloneum vel consuetudinem *ab hominibus Wintoniæ de Gilda Mercatoria* ceperit, postquam ipse a recto defecerit Vicecomes de Southamton vel Præpositus Wintoniæ *Namium* inde apud Wintoniam capiat. Insuper etiam ad emendandam Civitatem eis concessimus quod omnes sint quieti & de * Jereſgiene & de Scoteshale ita quod si Vicecomes noster vel aliquis alius Ballivus Sotthale faciat. Has prædictas consuetudines eis concedimus & omnes alias libertates & liberas consuetudines quas habuerunt temporibus Antecessorum nostrorum quando meliores vel liberiores habuerunt; & si aliquæ consuetudines injuste levatæ fuerunt in guerra cassatæ sint, & quicunque petierint Civitatem Wintoniæ cum mercatu suo de quocunque loco sint, sive extranei sive alii, veniant, morentur & recedant in Salva pace nostra reddendo rectas consuetudines, & nemo eos disturber super hanc Cartam nostram. Quare volumus & firmiter præcipimus quod ipsi & hæredes eorum hæc omnia prædicta *hereditarie habeant & teneant de nobis & hæredibus nostris*. Testibus Waltero Rothomagensi Archiepiscopo,

D R. Bathoniensi, H. Coventrensi Episcopis, Bertram de Verdun, Johanne Mareſcallo, W. Mareſcallo. Data per manum Johannis de Alencon Archidiaconi Lexoviæ Vicecancellarii nostri apud * Nunancurt decimo quarto die Martii, Anno primo Regni nostri.

E

F

Cart. Antiq.
R. n. 30.

N. 19.

* The same
with Gereſi-
ma, see Wa-
lingford Char-
ter.* In Norman-
dy.

Lincoln.

Lincoln. 1 vel 2 Ric. 1.

Cart. Antiq. F.
n. 16.

N. 20.

* The Burgh
or Folkmot,
or Court of
the Inhabitants
of the Burgh
or City.

Ricardus Dei Gratia *Rex Angliæ, Dux Normannie, Aquitanie, Comes Andegaviæ* Archiepiscopis, Episcopis, Abbatibus, Comitibus, Baronibus, Justiciariis, Vicecomitibus, Ministris & omnibus fidelibus suis tam Francis quam Anglis, Salutem. Sciatis nos concessisse Civibus nostris Lincolnæ quod nullus eorum placitet extra Civitatem Lincolnæ de aliquo placito præter placita de tenuris exterioribus, exceptis Monetariis & ministris nostris. Concessimus etiam quietanciam murdri infra Civitatem & in *Portsocha* & quod nullus eorum faciat duellum, & quod de placitis ad coronam pertinentibus se possint disrationare secundum consuetudinem Civium Civitatis Lincolnæ, & quod infra Civitatem illam nemo capiat hospitium per vim vel per liberationem Marescalli. Hoc etiam eis concessimus quod omnes Cives Lincolnæ sint quieti de Theloneo & Lestagio per totam Angliam & per portus Maris, & quod nullus de Misericordia pecuniæ judicetur nisi secundum legem quam habent Cives nostri Lundoniæ, & quod in Civitate illa in nullo placito sit Meskenninga, & quod * Burwaremot semel tantum in ebdomada teneatur; & quod terras & tenuras & vadia sua & debita sua omnia iuste habeant quicunque eis debeat, & de terris suis & tenuris quæ infra Civitatem sunt rectum eis teneatur secundum consuetudinem Civitatis, & de omnibus debitis suis quæ accommodata fuerint apud Lincolniam & de vadiis ibidem factis placita apud Lincolniam teneantur. Et si quis in tota Anglia Theloneum vel consuetudinem ab hominibus Lincolnæ ceperit postquam ipse a recto defecerit, *Præpositus* Lincolnæ *Namium* apud Lincolniam capiat. Insuper etiam ad emendationem illius Civitatis illis concessimus quod sint quieti de Bridtol, & de Childwite & de Geresgiene & de Scothale, ita quod *Præpositus* nec alius Ballivus Scothalam faciat. Has prædictas consuetudines eis concessimus & omnes alias libertates & liberas consuetudines quas habuerunt vel habent Cives nostri Lundoniæ quando meliores vel liberiores habuerunt secundum libertates Lundoniæ & leges Civitatis Lincolnæ. Quare volumus & firmiter præcipimus, quod ipsi & hæredes eorum hæc omnia prædicta habeant & teneant hæreditarie de nobis & hæredibus nostris reddendo per annum *novies viginti* libras numero de Lincolnâ cum omnibus pertinentiis ad Scaccarium nostrum duobus terminis, ad Pascham, Scilicet, & ad Festum Sancti Michaelis per manum *Præpositi* Lincolnæ. Et Cives Lincolnæ faciant *Præpositum* quem voluerint de se per annum qui sit *idoneus Nobis & eis*. Testibus his Huberto Cantuariensi Archiepiscopo, Willielmo Marescallo, Gaufrido filio Petri, Hugone Bam Data per manum Willielmi Eliensis Episcopi Cancellarii nostri apud Winton.

William Longchamp, Bishop of Ely, was Chancellor of England before he was Consecrated Bishop of that place. Anno Domini 1189. 1 Richard 1. and was deposed from his Chancellor-Ship A. D. 1191. So that this Charter was dated by him, either in the First, or Second year of King Richard the First.

York.

York. I Johannis.

Johannes Dei Gratia, &c. Sciatis nos concessisse Civibus nostris de Eboraco omnes libertates & leges & consuetudines suas & nominatim *Gildam* suam *Mercatoriam* & *Hansas* suas in Anglia, & Normannia, & Lestagia sua per totam Costam maris quieta sicut ea unquam melius & liberior habuerunt tempore Regis Henrici *Avi* patris nostri. Et volumus & firmiter præcipimus, quod prædictas libertates & consuetudines habeant & teneant cum omnibus libertatibus prædictæ *Gildæ* sue & *Hansis* suis pertinentibus, ita bene & in pace libere & quiete sicut unquam melius liberior & quietius habuerunt & tenebant tempore prædicti Regis Henrici *Avi* patris nostri, sicut Carta ejusdem Patris nostri & Carta Regis Ricardi fratris nostri rationabiliter testantur. Præterea Sciatis nos concessisse & præsentī Carta confirmasse omnibus civibus nostris Eboraci quietanciam cujuslibet Thelonei, & lestagii, & * Dewree, & Pontagii, & Passagii & de trespas & de omnibus Costivis per totam Angliam & Normanniam, & Aquitaniam & Andegaviam & Pictaviam, & per omnes portus & Costas maris Angliæ & Normanniæ Aquitanix Andegaviæ & Pictaviæ. Quare volumus & firmiter præcipimus quod inde sint quieti, & prohibemus ne quis super hoc disturbet super decem libras forisfacturæ, sicut Carta Ricardi Regis fratris nostri rationabiliter testatur. Testibus G. Eboracensi Archiepiscopo, Ph. Dunelmensi Episcopo, Gaufrido filio Petri Comitis Essex, &c. Data per manum S. Wellensis Archidiaconi & Johannis de Gray apud Eboracum Vicefimo quinto Die Martii, Anno Regni nostri primo.

Cart. I Johan.
p. I. n. 75.

N. 21.

* Forfan de
Wrec.

Norwich. I Johannis.

Johannes Dei Gratia, &c. Archiepiscopis, &c. Sciatis nos concessisse Civibus nostris Norwici quod nullus eorum placitet extra Civitatem Norwici de nullo placito præter placita de tenuris exterioribus, exceptis Monetariis & Ministris nostris. Concessimus eis etiam quietanciam murdri & Gawitam infra Civitatem, & quod nullus eorum faciat duellum, & quod de placitis ad coronam pertinentibus se possint disrationare secundum consuetudinem Civitatis *Londoniæ*, & quod infra Civitatem illam nemo hospitetur vel capiat quicquam per vim. Hoc etiam concessimus eis, quod omnes Cives Norwici sint quieti de Theloneo & Lestagio per totam Angliam & per portus maris, & quod nullus de misericordia pecuniæ judicetur nisi secundum legem quam habent Cives nostri *Londoniæ*, & quod in Civitate illa in nullo placito sit Miskeninga, & quod *Hustinga* semel in ebdomade tantum teneatur & quod terras suas & tenuras, & vadia sua & de vita sua omnia iuste habeant, quicumque eis debeat, & de terris suis & tenuris quæ infra Civitatem sunt, rectum eis teneatur secundum consuetudinem Civitatis, & de omnibus debitis suis quæ accommodata fuerint apud Norwicum & de vadiis ibidem factis placita apud Norwicum teneantur. Et si quis in tota Anglia Theloneum vel consuetudinem

Cart. I. Johan.
p. I. m. II. n.
146.

N. 22.

dinem ab hominibus Norwici ceperit, postquam ipse a recto defecerit, *Præpositus* Norwici *Nannum* inde apud Norwicum capiat. Has prædictas consuetudines eis concessimus & omnes alias libertates & liberas consuetudines quas habuerunt & habent Cives nostri Londoniæ, quando meliores vel liberiores habuerunt secundum libertates Londoniæ & leges Civitatis Norwici. Quare volumus & firmiter præcipimus, quod ipsi Cives & hæredes eorum hæc omnia prædicta cum Civitate & pertinentiis ejus *hereditarie habeant & teneant de nobis & hæredibus nostris*, reddendo per annum *Centum & octo* libras Sterlingorum blanceas de Civitate Norwici per manum *Præpositi* Norwici ad Scaccarium nostrum in termino Sancti Michaelis. Et Cives Norwici faciant *Præpositos* de se per annum, qui sint *idonei Nobis & eis*.
 Testibus H. Sar. Episcopo, S. Wellensi Archidiacono
 J. de Gr. Data per manum H. Cantuariensis
 Archidiaconi Cancellarii nostri apud Genom. Vicefimo secundo
 die Septembris anno Regni nostri primo.

F I N I S.

In the Chappel of the Rolls, in the Bundle of Returns of Parlement Writs, in the 14 of Queen Elizabeth.

A **T**O all Christian People to whom this present Writing shall come. I Dame *Dorothy Packington* Widow, late Wife of Sir *John Packington* Knight, Lord and Owner of the Town of *Aylesbury*, sendeth Greeting. Know ye, Me the said Dame *Dorothy Packington*, to have chosen, named and appointed my trusty and well-beloved *Thomas Lichfeld* and *George Burden* Esquires, to be my Burgesses of my said Town of *Aylesbury*. And whatsoever the said *Thomas* and *George*, Burgesses, shall do in the Service of the Queens Highness in that present Parliament to be holden at *Westminster* the Eighth Day of *May* next ensuing the date hereof, I the same Dame *Dorothy Packington* do ratifie and approve to be my own Act, as fully and wholly as if I were or might be present there. In witness whereof, to these Presents I have set my Seal. the Fourth Day of *May*, in the 14th Year of the Reign of our Sovereign Lady *Elizabeth*, by the Grace of God, of *England, France* and *Ireland*, Queen, Defender of the Faith, &c.

N. 23.

In the Chappel of the Rolls, and Bundle of Returns of Parlement Writs this Year.

D **H**Ec Indentura facta apud *Aylesbury* in Comitatu Bucks vicesimo octavo die Septembris Anno Regni Dominæ nostræ *Elizabethæ* Dei Gratia Angliæ, Franciæ & Hiberniæ Reginæ Fidei Defensoris, &c. Vicesimo Octavo, Inter Edwardum Bullstrode Armigerum Vicecomitem Comitatus prædicti ex una parte & Johanem Packington Armigerum Dominum Burgi de *Aylesbury*, & Comunitatem ejusdem ex altera parte Testatur. Quod prædictus Joanes Packington, & Comunitas ejusdem Burgi & Villæ virtute Warranti ejusdem Vicecomitis Ballivo prædicti Johannis Packington directi die & Anno prædictis eligerunt Thomam Tasburgh & Thomam Scot Armigeros Essendos Burgenses pro Burgo & Villa prædicto, ad Parliamentum Dominæ Reginæ apud Westmonasterium Quinto decimo die Octobris proxime futuro tenendum. Et quod iidem Burgenses plenariam & sufficientem du potestatem pro se, Burgo, & Villa prædictis habent ad consentiendum eis quæ tunc ibidem pro Comuni Consilio ejusdem Parliamenti pro utilitate Regni Angliæ ad dictum Parliamentum favente Deo contigerint ordinari. In cujus Rei Testimonium tam prædictus Johannes Packington & Comunnitas Villæ prædictæ, Quam prædictus Vicecomes sigilla sua hiis Indenturis alternatim apposuerunt die & Anno supra-dictis.

N. 24.

Les Petitions des Citezeins & Burgeis.

Rot. Parl. 46.
Ed. 3. N. 46.
N. 25.

A Nostre Seigneur le Roi, & son noble Conseil monstrent ses Citezeins de la Citee de Londres, que come ils neient d'ont vivre, si non pur leur Travail & Franchise, sur queux Franchise la dit Citee estoit Fundus. Et à cause la dite Franchise ils soloient Travailler per Terre & Meer en divers Terres à faire leur profit, par quelle Travail ils soloient de divers Terres amesner divers Merchandises à Grant Commune profit de Tout la Roialme Dengleterre, à Grant Eyde & Maintenance de la dite Citee, sustenance & encrese del Navy de la dite Terre. Et ore tard leur dites Franchises sont tolluz encontre la Grante nostre dite Seigneur le Roy, ses noble Progenitors Ensealez de sous leur sealez & encontre la Grant Chartre, à Grant Destruccion si bien du dite Citee, Comunes Damages de la Terre, Come al dite Navie, sur quoy ils prient que leur plese avoir Regard, que la dite Citee est funduz sur les ditz Franchises, saunz queux ils ne poient la dite Citee Mayntener, ne les Taxes & autres Charges porter come ils soloient faire, sur quoy ils prient qu'ils puissent avoir leur dites Franchises selonc la Grant nostre dit Seigneur le Roi, les noble Progenitors, & la Grant Chartre. Et que aliiels Grants, & Confirmements des Franchises, soient faitz as toz autres Citees & Boroghs du Roialme.

Ro.

Declarent en especial Queles Franchises leur sont Tolluz, & Droit leur ferra fait.

Retorn. Brev.
Parl. 2. Hen. 5.
N. 26.

Parlement
Burgesses chosen in the
County-Court.

12 Burgesses
Electors.

HEc Indentura testatur quod virtute cujusdam brevis Domini Regis Roberto Hakebech Vicecomiti Cantebrigie directi & huic Indeture confuti, facta proclamatione in proximo Comitatu Cantebrigie apud Cantebrigian tento die Jovis proximo ante festum Apostolorum Simonis & Jude, Anno Regni Regis Henrici quinti post Conquestum secundo, Alexander Westmerland, Johannes Knapton, Robertus Gerneys, Alanus Huberd, Robertus Attilbrigg, Hen. Topclef, Johannes Sexteyn, Thomas Wexchaundeller, Johannes Abraham, Willielmus Histon, Johannes Lustere, & Willielmus Duke, Burgenses de Burgo Cantabriggie, qui proclamationi illi inter fuerunt elegerunt *Johannem Grenelane, & Johannem Hokynton* duos Burgenses pro Burgo predicto ex assensu totius Communitatis Burgi predicti essend. ad parliamentum dicti Domini Regis teneri ordinatum apud Westminsterium die lune proximo post octabas sancti Martini proximo futur. Qui quidem Burgenses plenam & sufficientem potestatem habent pro se & Communitatibus Burgi predicti ad faciend. & consentiendum hiis que tunc ad dictum parliamentum favente Domino ordinari contigerit. In cujus rei testimonium tam predictus Vicecomes quam predicti Alex. Johannes, Robertus, Alanus, Robertus, Henricus, Johannes, Thomas, Johannes, Willielmus, Johannes, & Willielmus, presentibus Indenturis Sigilla sua alternatim apposuerunt. Dat. loco die & anno supra-dictis.

Hec

HEc Indentura testatur quod virtute cujusdam precepti Domini Regis, Richardo Wright Majori Cantabrigie facta proclamatione in proxima Curia libertatis Ville predictæ tenta post receptionem ejusdem precepti die Veneris proximo ante festum Purificationis beate Marie Virginis, Anno Regni Regis Henrici Sexti post Conquestum Viceffimo septimo Richardus Andrewe, Johannes Neel, Thomas Harman, Johannes Scot, Johannes Colbrók, Johannes Lawe, Robertus Garland, & Johannes Heshewell, Burgenfes Ville predictæ qui proclamatione predictæ fuerunt, & illi octo secundum consuetudinem libertatis Ville predictæ eligerunt Willielmum Temays & Johannem Croft duos Burgenfes idoneos pro Communitate predicti Burgi Cantabrigie qui plenam & sufficientem potestatem pro se & Communitate Burgi predicti habent, ad faciendum & consenciendum super hiis que in Parlamento Domini Regis apud Westminster duodecimo die Februarii proximo futuro teneri ordinari contigerit juxta formam precepti predicti. In cujus rei testimonium predicti Richardus Andrewe, Johannes Neel, Thomas Hayrman, Johannes Scot, Johannes Colbrok, Johannes Lawe, Robertus Garland, & Johannes Heshewel presenti Indenturæ Sigilla sua apposuerunt dat. die loco & anno supra-dictis.

Retorn. Brev.
Parl. 27 H. 6.
N. 27.

Eight Electors
secundum consuetudinem
Libertatis
Ville, &c.

HEc Indentura facta inter Johannem Harleston Armigerum Vicecomitem Comitatus Cantabrigie ex una parte & Majorem Ballivos & Comitatus Ville Cantabrigiæ ex parte altera, testatur quod idem Vicecomes apud Castrum Cantabrigie in pleno Comitatu suo ibidem tento die Jovis decimo quinto die Octobris Anno Regni Regis Henrici Sexti Viceffimo nono virtute brevis Domini Regis presentibus consuti, & prefato Vicecomiti directi, eligi feci per octo personas secundum consuetudinem Villatæ predictæ, Videlicet per Ricardum Togood, Henricum Symmesson, Johannem Sergeant, Benedictum Morys, Thomam Hunmale, Johannem Sexteyn, Willielmum Alreth, & Robertum Damay, tunc ibidem presentes duos Burgenfes Burgi predicti magis idoneos & discretos juxta formam predicti brevis videlicet Johannem Cooke, & Johannem Barton Ville predictæ plenam potestatem & sufficientem habentes ad consenciendum & faciendum in parlamento in dicto brevi specificato quod dictum breve in se exigit & requirit juxta formam ejusdem brevis pro se & Communitate Ville & Burgi predicti divisim. In cujus rei testimonium tam predictus Vicecomes quam predicti Major, & octo Burgenfes Ville predictæ Sigilla sua presentibus Indenturis alternatim apposuerunt data die Anno & loco supra-dictis.

Retorn. Brev.
Parl. 29 H. 6.
N. 28.

Burgeses chosen in the
County-Court.

Eight Electors
secundum consuetudinem
Villæ.

Et

Patent 1 Jac.2.
in capella Rot.
N. 29.
Nova Windsor.

ET insuper Voluimus at per presentes ordinamus & de uberiori gratia nostra speciali pro nobis heredibus & successoribus nostris concedimus prefato Majori Ballivis & Burgenlibus & Successoribus suis quod in perpetuum sint & erint in Burgo predicto viginti octo homines vel aliquis alius numerus non excedens numerum triginta in numero tantum, de melioribus & probioribus Inhabitantibus ejusdem Burgi de tempore in tempus in hujusmodi modo & forma eligendos & constituendos *sicut ex antiquo & temporibus retroactis secundum ordinationes, usus, & consuetudinem Burgi illius antehac usi fuerunt & consueverunt*, qui erunt, vocabuntur, & nominabuntur fratres Guildhall Burgi de Nova Windsor, ac sic continuabuntur & permanebunt in Fraternitate illa quamdiu sese bene gesserint in eadem, Nisi interim pro aliqua causa rationabili ab officio & loco predictis amovebuntur, aut eorum aliquis amovebitur Qui quidem fratres sic in forma Superius specificati, electi, prefecti, & nominati facient & erunt, & in perpetuum futuris temporibus *vocabuntur commune Concilium Burgi predicti* pro omnibus rebus, materiis, causis, & negotiis Burgum predictum ac bonum regimen, Statum, & Gubernationem ejusdem Burgi tangentibus sive concernentibus ac erunt de tempore in tempus assistentes & auxiliantes Majori & Ballivis ejusdem Burgi pro tempore existentibus, in omnibus causis & materiis eundem Burgum tangentibus sive concernentibus volumus; in super ac per presentes pro nobis heredibus & successoribus nostris ordinamus & concedimus quod ex numero predicto fratrum Guildhalde Burgi predicti sic ut prefertur electorum & prefectorum eligendorum & preficiendorum tres decim eorum in perpetuum de cetero erunt, & vocabuntur ac nominabuntur Socii Anglice les Benchers Burgi predicti, Ac etiam erunt & perpetuis futuris temporibus vocabuntur, & nominabuntur Socii, Anglice *the Benchers of the Guildhall* infra Burgum predictum ac in forma inferius in presentibus mentionata de tempore in tempus eligentur & constituentur Ex quoque quidem tres decim Sociorum numero sic electorum & prefectorum eligendorum & preficiendorum decem eorum in perpetuum de cetero erunt, vocabuntur, & nominabuntur Aldermani sive Primarii Socii Anglice les Chiefe Benchers Burgi illius, Qui quidem Aldermani sive Primarii Socii Anglice les *Chiefe Benchers* Burgi predicti de tempore in tempus eligendi & constituendi in forma inferius in presentibus mentionata & expressa de tempore in tempus eligentur & constituentur, Ex quoque quidem decem Aldermannorum numero unus Anuatim elegetur in officium Majoris Burgi predicti, modo & forma inferius Specificatis, & Officio suo Majoris Burgi predicti peracto deinde perpetuis futuris temporibus erit, vocabitur & nihilominus remanebit unus de Aldermannis sive Primariis Sociis, Anglice les *Chiefe Benchers* Burgi predicti, Et ulterius volumus ac per presentes pro nobis heredibus & Successoribus nostris ordinamus quod de cetero in perpetuum sint & erunt in Burgo predicto duo Ballivi in numero tantum de fratribus Burgi predicti in forma his literis Patentibus Specificata eligendi, & constituendi.

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1847

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2. The second part of the book is devoted to a detailed description of the country, and is written in a more popular style. It is well illustrated by numerous maps and diagrams.

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5. The fifth part of the book is devoted to a description of the commerce of the country, and is written in a more popular style. It is well illustrated by numerous maps and diagrams.

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